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ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1996

Addendum

JAPAN

[30 May 1996]

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Introduction

The child shall be respected as a human being.
The child shall be esteemed as a member of society.
The child shall be raised in a good environment.

1. This is the statement of fundamental principles set out in the Children's Charter of Japan, established and declared in 1951 with the rise of public awareness and popular movement at that time. Ever since then, it has been recognized by many Japanese people as a significant philosophy acknowledging the fundamental rights of children and promising to guarantee and promote their well-being. With the ratification of the Convention on the Rights of the Child on 22 April 1994 as a turning point, the awareness of the rights of children has continued to grow, and the spirit of respecting and protecting the rights of children is now understood among the Japanese people more than ever before.

2. The protection of fundamental human rights is the important pillar of the Constitution of Japan, of which article 97 stipulates that fundamental human rights are "conferred upon this and future generations in trust, to be held for all time inviolate". These fundamental human rights include: (i) civil liberties such as the right to liberty and the rights to freedom of expression, thought, conscience and religion; (ii) social rights such as the right to receive education and the right to maintain the minimum standards of wholesome and cultured living.

3. The Constitution protects the fundamental rights of children as well. Especially in the interests of children, the Child Welfare Law was established in 1947 in recognition of the need to promote child welfare both in mind and body. Article 1 of the Child Welfare Law provides that "all people shall strive to ensure the sound birth and growth of children, both in mind and body. The livelihood of each and every child shall equally be guaranteed and protected". This provision not only elucidates that all people as members of society, including parents, guardians and teachers, have responsibility for sound child rearing, considering the best interests of the child in each individual case, but also upholds that each child must be respected as a human being so as to enjoy the fundamental human rights equally without any discrimination in that respect. Article 2 of the said Law prescribes that "the State and local public entities bear responsibility for the sound mental and physical growth of children", explicitly defining the duty of the State and local public entities for child welfare. In addition, article 3 of the said Law stipulates that "the principles stipulated in the preceding two articles guarantee the welfare of children and shall be observed at all times in the enforcement of all laws and ordinances concerning children", clarifying that the principles of child welfare as provided for in articles 1 and 2 must be respected in the execution of any law or ordinance relating to children, not only the Child Welfare Law. The Japanese Government, under such basic principles which conform to the spirit of the Convention, has been developing various measures relating to welfare and education, etc.

4. In terms of welfare, under the Child Welfare Law the Japanese Government expands child welfare facilities such as Child Guidance Centres, nursing facilities and day-care centres, enhances the protection of children and

assists households. Moreover, under the Maternal and Child Health Law, which aims to maintain and promote maternal and child health, it provides various maternal and child health services such as: health guidance for pregnant women, infants and toddlers; health examination of three-year-olds; nutrition improvement assistance; nursing and medical assistance of premature babies; and issuing of the Maternal and Child Health Handbook. To assist child-rearing, furthermore, it provides allowances under the Child Allowance Law and other relevant laws, which contribute to the promotion of child welfare. In recent years, however, the environment surrounding children has been changing due to the falling number of children per family and the ever-increasing participation of women in society, making it indispensable to consolidate measures in view of such changes. The Government, none the less, has always aimed to enhance policies to promote child welfare, paying heed to the best interests of the child.

5. Education is vital to enable children to realize their potential and to create human beings capable of adapting to society. The Government has endeavoured to disseminate education under the Fundamental Law of Education and the School Education Law, and today has achieved almost 100 per cent in school enrolment in compulsory education. The Fundamental Law of Education intends to spread education esteeming personal dignity. Accordingly, it upholds the basic principle of "individual-oriented education" and encourages education and guidance, setting much value upon the individuality of each child, with due regard to the rights of children

6. For a child to become a person of sound mind and body who can decide and act with a spirit of self-reliance, he/she has to gain rich experience in various activities both inside and outside school. From 1992 onwards, therefore, the Government introduced the five-day school-week system. This system has given latitude in children's lifestyles and provided children with opportunities to gain ample experience in various activities in everyday life at home as well as in the local community. In this respect, the Child Welfare Law provides for child welfare facilities (art. 40) to engage children in sound play, promote their health and cultivate their artistic aptitude. Based upon the provision, the Government endeavours to expand such facilities.

7. To ensure the rights of children, who are in the process of maturing both in mind and body, special protection especially from harmful environments must be given. The Government has implemented appropriate measures to protect children from all forms of exploitation and abuse under the Penal Code, the Child Welfare Law and the Labor Standards Law, etc. While enforcing regulations under the relevant laws, the Government also promotes various public relations activities and clean-up campaigns targeting harmful environment, and actively engages in protection and guidance activities for children nationwide, in close cooperation with families, schools and local communities.

8. Juvenile delinquents must be protected and given appropriate guidance as swiftly as possible, in addition to the consideration which should be paid to the environment in taking such steps. From this point of view, under the Juvenile Law, the Child Welfare Law and other relevant laws, the Government is consolidating the framework to deal with juvenile cases, correctional

reatments, rehabilitation measures, including environmental adjustments, and raining/education of juvenile delinquents, in order to prevent recidivism and ssist delinquents' smooth reintegration back into society.

. In terms of international cooperation, Japan declares its commitment to ay full consideration to children and other socially weak persons in Japan's fficial Development Assistance (ODA) Charter, as a means for implementing ODA ffectively. Based upon this principle, the Government is actively practising nternational cooperation to respect and protect the rights of children around he world: it implements bilateral cooperation programmes for the onstruction of school buildings, maternal and child health centres, and rojects for children's hospitals. It also provides financial cooperation hrough such international organizations as the United Nations Children's Fund (UNICEF), the World Health Organization (WHO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

10. The Convention on the Rights of the Child provides fundamental principles for protecting the rights of all children. Following the atification of the Convention, the Japanese Government has been striving to consolidate various measures within the existing legal framework to implement the Convention effectively. In reality, however, cases of child abuse are on the increase and the situation of juvenile delinquency and bullying is becoming increasingly serious, partly because of demoralizing influences from modern society such as the weakening of human relations, including those with parents, and the inundation of harmful information. Under such circumstances, new challenges have arisen.

11. To ensure that all children develop their personality within a perfect, harmonious environment, the Government must assiduously endeavour to consolidate policies in an effective and comprehensive manner to create such an environment in practice. In Japan, many non-governmental organizations, etc., have been voluntarily undertaking activities to implement the Convention effectively, and the value of these activities is acknowledged. To ensure that the rights of children are fully respected and protected, families, local public entities, schools, the police and non-governmental organizations as well as the Government have to act in concert for the best interests of the child. Furthermore, all the people in Japan should deepen their understanding of the Convention and strive to achieve such goals.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Measures taken to harmonize national law and policy with the provisions of the Convention (art. 4)

12. In ratifying conventions or treaties, the Japanese Government ensures that national laws are consistent with the provisions of the conventions or treaties. The Convention on the Rights of the Child, which defines "children" as "any person under the age of eighteen years", stipulates broadly rights to freedom (such as those concerning expression, thought and conscience) and social rights (including those regarding social security and standards of living). It also stipulates matters contributing to the protection of children (such as the primary responsibility of the parent/guardian(s) for caring for and raising the child) and matters to deal with problems in modern

society (such as the protection of children from narcotics, sexual exploitation and abuse, and the protection of children of refugees). Ratification of the Convention, nonetheless, did not require any amendments to Japanese legislation nor any new enactments of law, since most of those matters have been stipulated by the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights - to which Japan became party in 1979 - and are guaranteed under the existing legal framework of Japan, including the Constitution.

13. The Government has, however, made the following reservation to ensure conformity with domestic laws:

> "In applying paragraph (c) of article 37 of the Convention on the Rights of the Child, Japan reserves the right not to be bound by the provision in its second sentence, that is, 'every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so', considering the fact that in Japan as regards persons deprived of liberty, those who are below twenty years of age to be generally separated from those who are of twenty years of age and over under its national law."

The reason is as follows: The said provision stipulates for article 37 (c) of the Convention that "every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so". Although a "child" means "every human being below the age of eighteen years or less unless, under the law applicable to the child, majority is attained earlier" according to the Convention (art. 1), there are no provisions for the definition of "adults". We may, nevertheless, interpret that "adult" in this context means any persons other than a "child", that is, a human being no less than the age of eighteen years, considering that the object of the said provision is to prevent and protect youngsters called "children" from being subject to harmful influence by separating them from other older persons. In Japan, however, persons under 20 years of age are dealt with as "juvenile" as provided for in article 2 of the Juvenile Law, under which any person less that 20 years of age deprived of liberty is to be separated from persons equal to or more than 20 years old. There is an obvious difference with the standard of age applied for separation as prescribed in the Convention. It was, therefore, decided to make such reservation with regard to the said provision.

14. Domestic laws have not been revised upon ratification, as already mentioned. It is, however, more important than ever to consolidate child protection and welfare in practice under the domestic legal framework, in order to ensure that the child undergoes full and harmonious development of his/her personality and lives an individual life in society. The ratification of the Convention on the Rights of the Child has served to be a cornerstone for improving policy measures to achieve that goal.

Protection of children's rights

15. In 1994, "Civil Liberties Commissioners for the Rights of the Child" was organized as an administrative measure to guarantee the rights of children including the rights provided for in the Convention. The Commissioners are in

harge of supervision to prevent the violation of the rights of children and ake swift, proper relief measures should they be violated. Their duty is to romote public relations campaigns (e.g. holding symposiums targeting local esidents, parents and children) to ensure that the significance, the details nd the objective of the Convention are properly understood and to raise ublic awareness of respect for the rights of children. The Commissioners of he Rights of the Child are selected from among civil liberties commissioners, awyers and individuals concerned with education in order to deal with the ssue of children's rights in an appropriate manner. They focus on the issues f children's rights and actively tackle these matters. As of 1 January 1996, 15 persons have been designated as Civil Liberties Commissioners for the ights of the Child, posted in every prefecture in Japan. The civil liberties ommissioners consist of volunteers selected from the general public and ommissioned by the Minister of Justice. They are actively performing various asks, giving counsel on human rights at homes and in guidance rooms of the egional Legal Affairs Bureaux and the District Legal Affairs Bureaux.

16. Additionally, civil liberties organs of the Ministry of Justice (the ivil Liberties Bureau, the Civil Liberties Department of the Legal Affairs ureau, the Civil Liberties Division of the District Legal Affairs Bureau and he civil liberties commissioners) set their main targets for public relations ctivities in 1994, 1995 and 1996 as "Let's Protect the Rights of Children", nder which the civil liberties organs have been conducting public relations ampaigns especially to raise the awareness of the need to respect the rights f children, in cooperation with schools and other relevant organizations.

Measures against child abuse

17. Urban in-home family support scheme. This scheme was introduced in 1994 in order to deal with family worries about child-rearing and problems such as maltreatment and delinquency. Utilizing the expertise of private facilities, households in neighbouring regions can receive counsel and, if necessary, be given prompt and constant in-home support (e.g. home calls). The objective of the scheme is to protect children's rights, contribute to sound child-rearing and further the innate disposition of children. As of 1995, the scheme had been implemented in 20 private facilities.

18. Model project for the management of child abuse cases. Launched in 1996, this project aims to construct a network against child abuse for the prompt identification of, the swift response against and the constant follow-up of child abuse cases. Not only does it seek to detect cases of child abuse, but it also tackles tough cases in liaison with a team consisting of welfare officers, doctors, lawyers and police.

Comprehensive child-rearing assistance

19. Angel Plan. In response to the falling birth rate and the increasing participation of women in public affairs in recent years, the Government devised the Angel Plan in 1994, incorporating the basic policy direction and essential measures for supporting child-rearing in the next 10 years in order to create a mass drive for child-rearing assistance in society at large and promote comprehensive measures to back up child-rearing. The Angel Plan is based on the idea that child-rearing at the family level must be supported by the society as a whole so as to create an environment where anyone wanting to have a child may give birth and raise a child without anxiety, assuming that

the best interests of the child should be of primary consideration in the promotion of measures for achieving that goal. Essential targets set under the Angel Plan include:

(a) Coordination of the working environment to balance work and child-rearing;

(b) Consolidation of various nursery care services;

(c) Reinforcement of the maternal and child health-care system, making child-bearing and -rearing smoother and less worrisome;

(d) Improvement of housing and living environments;

(e) Promotion of "relaxed school education", non-school activities and home education;

(f) Mitigation of financial burdens involved in child-rearing;

(g) Establishment of infrastructure for supporting child-rearing.

20. As part of the measures for applying the Angel Plan in concrete terms, the following targets have been established under the Five-Year Programme on Emergency Measures for Nursery Care to enforce nursery policies systematically:

Targets for the Five-Year Programme on Emergency Measure for Nursery Care

	1994	1999
Nurseries (Day care targeting infants 0-2 years old)	450,000 persons	600,000 persons
Extended day care (Day-care services after 6 p.m. in general)	2,230 centres	7,000 centres
Temporary nursery care (Emergency/temporary nursing)	450 centres	3,000 centres
Infant health day-care services (Day care for infants recovering from illness)	30 centres	500 centres
After-school children's clubs (After-school training/education mainly for children in lower grades of primary school	4,520 clubs	9,000 clubs
Construction of multipurpose nurseries (Secure counsel rooms for child-rearing upon refurbishing nurseries, etc.)	1,500 nurseries in 5 years	
Local child-rearing centres (Day-care centres for giving advice and supporting groups for child-rearing)	236 centres	3,000 centres

21. Additionally, the Ministry of Education is working to relieve the financial burden accompanying child-rearing and education, to consolidate home education, and to realize "relaxed school education" by alleviating competition in entrance examinations. Specifically, the Ministry promotes measures for (i) mitigating the financial burden accruing from child-rearing, (ii) consolidating home education by facilitating the counselling framework to deal with worries concerning child-rearing, (iii) improving the quality of non-school activities by affording opportunities for children to engage in dynamic activities, and (iv) encouraging "relaxed school education".

22. Amendments to the Child Allowance Law. The Child Allowance scheme, introduced in 1972, aims to stabilize family life and contribute to healthy child-rearing by providing a child allowance on a cash basis. In response to the changing environment surrounding children and families, the scheme was amended in 1994 to implement thorough child-rearing assistance services and programmes for sound child-rearing.

23. Establishment of the Foundation for the Children's Future. In July 1994, a juridical foundation entitled the "Foundation for the Children's Future" was established under the Civil Code with the aim of supporting projects for assisting child-rearing and the sound growth of children. The object of the Foundation is to supplement services which cannot easily be provided by the public sector.

Education

24. The Ministry of Education has instructed educational institutions to ensure that schools make the spirit and the principles of the Convention fully known and propagate the spirit of respecting fundamental human rights extensively throughout teaching activities in compliance with the object of the Convention.

International cooperation

25. Japan has been reinforcing its international cooperation efforts for respecting and protecting the rights of children. In particular, the Japanese Government has been promoting bilateral cooperation, especially in the fields of education, health and medical services, through the construction of school buildings and classroom facilities, maternal and child health care centres, and the improvement of children's hospitals, etc. As of 1994, the Government had provided aid amounting to roughly $3.4 billion in social infrastructure and services including such fields as these. Japan's share in bilateral Official Development Assistance directed to social infrastructure and services has been growing in recent years: its share increased from 12.3 per cent to 23.2 per cent between 1991 and 1994. The Government intends to carry on active assistance in this field in the future. It is worth noting that local governments have progressively started extending independent international cooperation efforts in this field; to promote this trend, the Government is offering support for such local government activities.

26. Japan also cooperates with international organizations. To the United Nations Children's Fund (UNICEF), the leading child-relief organ, Japan has been boosting contributions on an annual basis. In 1995, for instance, it

contributed $29,430,000, becoming the fifth largest donor that year. Additionally, Japan has been making contributions for the promotion of maternal and child health, such as campaigns for tackling tuberculosis, polio and AIDS, through the World Health Organization (WHO).

27. With regard to international cooperation, moreover, NGO activities have been highly appreciated. To support NGOs, the Government introduced the subsidies system for NGO projects and grant assistance for grass-roots projects in 1989. Ever since, the Government has been reinforcing support to NGOs yearly, including projects concerning maternal and child health. In 1995, government subsidies to health and sanitation projects accounted for ¥25.1 million (year-on-year increase of ¥16.7 million) and those to medical care projects totalled ¥229.9 million (year-on-year increase of ¥55.7 million); together, they covered approximately 40 per cent of the total sum of subsidies for NGO projects in 1995. The grant assistance for grass-roots projects in the medical sector accounted for over ¥1 billion, about one third of the total in fiscal year 1995.

B. Existing or planned mechanisms at national or local level for coordinating policies relating to children and for monitoring the implementation of the Convention (art. 4)

28. In Japan, various measures are taken to ensure the sound growth of the rising generation, that is, young adults and children, both in mind and body. Many administrative organs are concerned: for instance, the Ministry of Health and Welfare deals with services concerning the sound growth of children, the welfare of neglected children and disabled children, and maternal and child health; the National Police Agency deals with prevention of juvenile delinquency, guidance activities, protection of youth victims of crimes, and regulations against crimes injurious to the welfare of the youth; the Public Prosecutor's Office is in charge of sending juvenile delinquents to the courts, etc.; the Ministry of Justice performs tasks relating to the correction and rehabilitation of juvenile delinquents and the protection of human rights; the Ministry of Education deals with services concerning education, sports and culture; and the Ministry of Labour is responsible for the protection of minor workers, vocational training and so on. Through the Committee for the Promotion of Youth Policy, for instance, the Management and Coordination Agency adjusts measures relating to youth as enforced by these relevant authorities so as to implement them effectively and comprehensively under the Government as a whole.

29. The Management and Coordination Agency also endeavours to promote various measures for youth at the local level through the Government and local authorities. For example, it holds liaison conferences with youth affairs management departments in prefectures and designated cities, facilitating the exchange of information between the Government and the local authorities. The Government also offers counselling services concerning youth, where specialists give advice on occasion to promote the sound growth of children and to prevent and promptly identify cases involving violations of human rights. For instance, counselling services are available at the Civil Liberties Department (Division) of the Regional Legal Affairs Bureau, the Child Guidance Centre, the Education Centres, the Juvenile Guidance Centre,

the Juvenile Classification Home, the Juvenile Division in the headquarters of the Police Regions, and police stations (see table 1). The Government divides the country into six sectors and convokes liaison conferences with personnel in charge of counselling services in each sector, as it is vital that these counselling organs are reinforced and interconnected with one another to make a swift and pertinent response to consultations.

30. The Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of Health and Welfare, and other administrative organs are currently implementing various measures from their own standpoints to perform the duties prescribed by the Convention. In the implementation of measures, however, these administrative organs promote close cooperation and take care to achieve collaboration within the Government as a whole.

Table 1. PRINCIPAL YOUTH ADVISORY ORGANS

Name of organ (Jurisdiction)	Unit of establishment	Nature of advisory service (adviser)	Availability of service	Number of cases handled
Human Rights Counsel (Ministry of Justice)	Government	Advice on human rights and takes essential measures to solve the client's problem e g report to government authorities and other organs, and introduce him/her to legal aid associations, etc (Regional Legal Affairs Bureau, District Legal Affairs Bureau)	50 Regional Legal Affairs Bureaux and District Legal Affairs Bureaux and 279 branches are permanently stationed nationwide Outstation service is also available at public halls and department stores	581,190 cases (1995)
Child Guidance Centre (Ministry of Health and Welfare)	Prefecture and designated municipal authorities	Counsel to families on various problems concerning children and instructs children and guardians individually after evaluating special research findings if necessary. Admits children to child welfare facilities and places children under temporary guardianship (Child Welfare Officer)	175 centres	290,970 cases (1994)
Family and Children's Guidance Room (Ministry of Health and Welfare)	Welfare offices established by prefectural or municipal authorities	Among the tasks relating to child welfare performed by welfare offices, the Room undertakes those requiring special skills (Family Counsellor)	972 rooms	646,941 cases
National Institute for Educational Research, Education Centres, etc (Ministry of Education)	Prefectural and municipal authorities (managed by the board of education)	Counsel for education, health, family and delinquency, etc (education interests, doctors, psychologists and other specialists)	1,353 centres	387,882 cases

Name of organ (Jurisdiction)	Unit of establishment	Nature of advisory service (adviser)	Availability of service	Number of cases handled
Family Education Telephone Counsel (Ministry of Education)	Prefectural authorities	Counsel for family education in general (pedagogists, psychologists, doctors and other specialists)	41 centres	27,651 cases (1993)
Juvenile Guidance Centre (Management and Coordination Agency)	Prefectural authorities Municipal authorities Municipal union councils, etc Councils of competent organs and groups Private sector	Counsel for juvenile problems (Juvenile Adviser)	695 centres	154,634 cases (1993)
Prefectural Police headquarters, police stations (National Police Agency)	Prefectural police	Counsel for delinquency, misdemeanours and other issues concerning the sound growth of young persons (Juvenile counsellors, officers in charge of juveniles, female guidance officers)	1,312 stations (out of which 155 stations have Young Telephone Corners)	89,460 cases (1995)
Juvenile Classification Home (Ministry of Justice)	Government	Counsel for problems concerning juvenile delinquency, (psychotherapists and doctors, etc.)	53 homes	27, 034 cases (1994)
Probation Office (Ministry of Justice)	Government	Supervision of probationers and parolees, PR activities and guidance to raise public awareness of crime prevention; improvement of the social environment; promotion of crime prevention activities by local residents, etc. (Probation officer specializing in therapy)	50 offices	N/A

Name of organ (Jurisdiction)	Unit of establishment	Nature of advisory service (adviser)	Availability of service	Number of cases handled
Mental Health Council Research Institute, Social Rehabilitation Department, National Centre for Mental Health and Neurology (Ministry of Health and Welfare)	Government	Counsel and research study on mental health (Doctors, etc.)	1 centre	2,976 cases (1995)
Mental Health and Welfare Centre (Ministry of Health and Welfare)	Prefectural authorities Designated municipal authorities	Counsel and guidance for complex/tough cases concerning mental health and welfare. Specifically, advice and instructions on alcohol-related problems and mental health at puberty, etc (Doctors, etc.)	47 centres	203,676 cases (1994)
National Olympic Memorial Youth Centre (Ministry of Education)	National Olympic Memorial Youth Centre	Counsel and information services on youth activities (Leaders of youth clubs and personnel of the Centre)	1 centre	30 cases

C. Dissemination of the Convention (art. 42)

31. As for activities aimed at disseminating the objectives and the contents of the Convention and promoting proper understanding of it, many ministries and agencies have prepared pamphlets and propagated the principles of the Convention throughout the nation, including to children, as described in the following paragraphs. As public relations activities are extremely effective for implementing the Convention efficiently, the Japanese Government intends to carry on these activities, examining the reaction from the public to the activities conducted so far and the extent to which the Convention is recognized.

32. The Ministry of Foreign Affairs has been endeavouring to introduce and propagate the Convention among the general public by means of public relations magazines, TV and radio. In cooperation with the UNICEF office in Japan, the Ministry has prepared 90,000 leaflets explaining the conditions in which the Convention was drafted. The leaflets, which also include the full text of the Convention, are distributed to welfare offices, Child Guidance Centres, boards of education, interested private organizations and individuals. In collaboration with the Ministry of Education, moreover, the Ministry produced 1 million posters introducing the contents of the Convention in such fashion that children can easily understand, and distributed them to every class in kindergartens, elementary schools, lower secondary schools, upper secondary schools and schools of special education, child welfare facilities and public libraries, etc.

33. The Civil Liberties Bureau of the Ministry of Justice has also produced 100,000 PR handouts entitled "The Convention on the Rights of the Child and the Human Rights of Children", in order to promote the recognition of the gist and the nature of the Convention and to boost public awareness of the rights of children. The Bureau distributed them to schools, boards of education, local governments and other relevant organs through regional Legal Affairs Bureaux and District Legal Affairs Bureaux across the country.

34. The Ministry of Health and Welfare, furthermore, prepared and distributed pamphlets with a description of the Convention to make it widely known, especially among those involved in child welfare services. Additionally, the Ministry has been working to disseminate the contents of the Convention broadly among the general public, printing the key points of the Convention in the Maternal and Child Health Handbook issued to pregnant women.

35. The Ministry of Education, moreover, issued notices to relevant educational institutions to consolidate teaching activities in view of the spirit of the Convention and propagate the objectives of the Convention through various bulletins, training courses and conferences focusing on teachers so as to ensure that appropriate instructions are provided according to the level of education. Schools are intended to teach the significance and role of international law relating to human rights, including the Convention on the Rights of the Child, the philosophy of respecting fundamental human rights, and the growth and development of children.

D. Publication of the Report (art. 44, para. 6)

36. The Government will be distributing the report on the Convention to relevant ministries and agencies and to local governments, boards of education, child welfare facilities, Civil Liberties Departments of Regional Legal Affairs Bureaux and the UNICEF office in Japan through the ministries and agencies concerned. The report will also be made available at all times in the Ministry of Foreign Affairs to the general public as well as non-governmental organizations.

II. DEFINITION OF THE CHILD

Majority

37. In Japan, the Civil Code prescribes that any person attaining 20 years of age may take legal action autonomously. In terms of public law, for instance, persons are invested with the right to vote for members of the Diet upon attaining 20 years of age. In Japan, accordingly, an adult is any person of 20 years of age or more.

Marriage

38. Under the provisions of the Civil Code, a man may not marry until reaching 18 years of age, nor a woman until reaching 16 years of age. A person under 20 years of age must obtain the consent both of his/her father and mother in order to marry. After marriage, any person may independently become a party to legal action even if he/she is under 20 years of age.

Compulsory education

39. Compulsory education starts from the beginning of the school year that is the first to begin on or after the day following the child's attaining 6 years of age and finishes at the end of the school year during which he/she attains 15 years of age. In Japan, a school year starts on 1 April and ends on the following 31 March.

Voluntary statement in courts

40. In Japan, statements by minors (under 20 years of age) in civil suits and civil mediation are made through legal representatives as minors do not have any litigation capacity. In actions relating to personal status, family hearings and family conciliation, however, minors may make statements if they are mentally fit.

Criminal liability, etc.

41. The Penal Code of Japan provides that an act of a person under 14 years of age is not punishable. Under the Juvenile Law of Japan, however, "juvenile" (shonen) refers to anyone under 20 years of age. With the aim of ensuring the sound upbringing of juveniles and correcting the character and adjusting the environment of delinquent juveniles, the Juvenile Law stipulates that anyone under 20 years of age is to be judged in a Family Court, where proceedings for protection are taken to determine whether it is appropriate to

take protective measures. Only if protective measures have been found to be inappropriate is he/she to be transferred to undergo criminal proceedings (provided that the person in question is 16 years of age or more and commits an offence punishable with the death penalty or penal servitude or imprisonment) (for details, refer to para. 257)). On similar grounds, anyone under 20 years of age is subject to procedures different from those for persons of 20 years of age or more upon imprisonment and other measures depriving them of liberty (for details, refer to para. 277).

Labour

42. With respect to persons under 18 full years of age, provisions of the Labour Standards Law restrict working hours and work on rest days, prohibit late-night work in principle and regulate dangerous and hazardous work. The Labour Standards Law also prohibits the employment of children under 15 full years of age. As an exception, however, with permission of the administrative office, children attaining 12 full years of age may be employed in occupations in non-manufacturing enterprises involving light labour which is not injurious to the health and welfare of children, and children under 12 full years of age may be employed in enterprises for motion picture productions and theatrical performances. Provisions of the Labour Standards Law are also applicable to the employment of part-time workers.

Sexual crimes

43. Under the Penal Code, anyone who performs a sexual act or commits an indecent act with a male or female person under 13 years of age is subject to punishment, whether or not the act is committed by violence or threat thereof. The Child Welfare Law additionally prohibits inducement of a person under 18 years of age to practise obscene acts. The law also prescribes punishment for keeping a child in custody for the purpose of making him/her engage in harmful activities.

Enlistment

44. There is no conscription system in Japan. Persons 18 years of age and over may be recruited in principle as volunteers for service in the Self-Defence Forces. Nevertheless, as an exception, persons between 15 and 16 years old may be recruited as youth cadets in the Self-Defence Forces (for details, refer to para. 255).

Alcohol, etc.

45. In Japan, the Law on Prohibiting Liquors to Minors prohibits anyone under 20 full years of age to drink and the Law on Prohibiting Smoking to Minors prohibits them from smoking. These laws prescribe that the prevention of minors from drinking and smoking, etc. is the duty of persons in parental authority. Additionally, the Law on Control and Improvement of Amusement and

Entertainment Businesses prohibits providing alcohol or cigarettes to anyone under 20 years of age in a place of entertainment or amusement and other entertainment-related businesses* or restaurant businesses.

Child population

46. As of 1 October 1994, the total population of Japan was 125,034,000. The child population (0-17 years old) numbered 25,516,000, accounting for 20.4 per cent of the total population.

Table 2. Population by age (000)

Total population	125,034 (100%)
0-17 years old	25 516 (20.4%)
0-4 years old	6 048 (4.8%)
5-9 years old	6 723 (5.4%)
10-14 years old	7 643 (6.1%)
15-19 years old	8 867 (7.1%)

Source: Survey by the Statistics Bureau, Management and Coordination Agency.

Number of births

47. The number of births was approximately 1,240,000 in 1994. Though the number of births has tended to move downwards in recent years, there was a slight increase in 1994 compared with the previous year.

Table 3. Number of births

Year	No. of births
1980	1 567 889
1985	1 431 577
1990	1 221 585
1991	1 223 245
1992	1 208 989
1993	1 188 282
1994	1 238 328

Source: Survey by the Ministry of Health and Welfare.

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* Entertainment-related businesses are defined as sex-oriented businesses such as bathhouses with private rooms, strip-tease theatres, or so-called "adult shops" where sexual materials are sold, etc.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

48. The Constitution of Japan states, in paragraph 1 of article 14, that "there shall be no discrimination ... because of race, creed, sex, social status or family origin", guaranteeing the equality of all of the people, including children, under the law. Under the principle of "equality under the law", all forms of discrimination against children by public authorities are prohibited.

49. In accordance with the provision of the Constitution, the Child Welfare Law states that "the life of each and every child shall equally be guaranteed and protected". In addition, all forms of discrimination against children by public authorities are also prohibited under stipulations of other national laws such as the provisions of article 2 of the Public Assistance Law (which provides for non-discriminatory, equal protection), article 3 of the Fundamental Law for Measures for Mentally and Physically Handicapped Persons (guaranteeing the equal treatment of all disabled persons) and paragraph 1 of article 3 of the Fundamental Law of Education (which prescribes equal opportunity of education).

50. Children of foreign or no nationality living in Japan are also guaranteed fundamental human rights under the Constitution of Japan, with the exception of rights that, owing to their nature, are interpreted to be applicable only to Japanese nationals. There are no nationality requirements in the provisions of the Child Allowance Law, the Child-Rearing Allowance Law and the Special Child-Rearing Allowance Law, etc. As for education, the Government endeavours to ensure that each and every child has an opportunity to receive education, in compliance with the provisions of the Constitution and the Fundamental Law of Education. Foreign children, however, may have difficulties receiving education and welfare services because of insufficient Japanese language ability. To solve this problem, the Government encourages local governments to furnish information in foreign languages by distributing pamphlets written in foreign languages and establishing special consultation offices for foreigners. The Government, moreover, applies measures to teach the Japanese language and give advice regarding everyday life and studies.

51. In cases where discrimination between individuals is found, the civil liberties organs of the Ministry of Justice promptly implement pertinent measures for remedy. In private law, if an act is found to be unlawful under the Civil Code, the person who performed the act will be held liable for damages. In cases where the discriminatory act runs contrary to public policy or good morals as referred to in article 90 of the Civil Code, which is a provision restricting personal autonomy in general, the act may be null and void. If the discriminatory act infringes penal statutes, the offender will be punished.

52. What is important, however, is that discrimination against a child deeply affects the development of his/her personality. In other words, there should be no discrimination whatsoever in order to ensure the full and balanced development of the child's personality. To this end, the Government has been educating students, through all school educational activities, particularly in social studies and moral education, to respect human rights,

to neither discriminate nor have prejudice against anyone, and to understand correctly questions of human rights including the dowa issue. In universities or colleges, students continue to deepen their knowledge and understanding of human rights through seminars on humanities and social sciences. Furthermore, various educational activities such as classes or lessons on human rights have been conducted in public halls, in accordance with the report of the Lifelong Education Council in which "human rights" is identified as an important subject of study in contemporary social studies. In this way, both the Government and the people should continue to strive together to educate the people and raise public awareness of the rights of children, so that the dignity of every child is respected and fundamental human rights are enjoyed by children.

53. The International Convention on the Elimination of All Forms of Racial Discrimination entered into force for Japan on 14 January 1996.

B. Best interests of the child (art. 3)

Best interests of the child

54. Article 13 of the Constitution stipulates that "all of the people shall be respected as individuals". Article 1 of the Child Welfare Law prescribes that "all of the people shall strive to ensure the sound birth and growth of children, both in mind and body". Other than these, articles 2 and 3 of the Child Welfare Law, article 1 of the Juvenile Law and article 3 of the Maternal and Child Health Law assume that a child's best interest is to be considered in each individual case.

Provision of protection and aid

55. In Japan, the family is considered the natural environment for the growth and welfare of children as well as other family members. Parents or legal guardians are regarded as having prime responsibility for the child's upbringing and development. The Government provides supplementary aid, if necessary, for parents in fulfilling their responsibility, and ensures protection and care essential for children by taking care to neither infringe the rights nor affect the obligations of parents.

Standards for safety and health and criteria for the number and suitability of staff

56. In Japan, the following child welfare facilities (see table 4) are available. With regard to these facilities, the Minimum Standards for Child Welfare Facilities on Equipment and Management (Ministerial Ordinance) provided by the Minister of Health and Welfare prescribes the standards for safety and health, in addition to those for the number and suitability of the staff. Pursuant to the Child Welfare Law, founders of these facilities are obliged to conform to the standards.

57. The Minimum Standards address: general rules for the construction of and equipment for child welfare facilities, emergency/disasters, general requirements for personnel, sanitation control, meals, medical examinations for inmates and employees, etc. (in chap. 1, General Provisions); and

equipment standards for respective child welfare facilities and criteria for the number and competence (qualification) of personnel, etc. (chaps. 2-10). According to the Minimum Standards, nurseries, for instance, are required to post at least one nursery governess for every six children and to install alarm systems and facilities to prevent children from falling. Moreover, the guidelines for centre-based day care, which are for nurseries providing day-care services, seek to: support children; promote their emotional stability; maintain their mental and physical health; respect their rights; enhance their autonomy; and encourage harmony among them. The Guidelines require nurseries to furnish an environment suitable for achieving those goals.

58. Provisions also require that directors and persons in charge of management are to be identified and permission to establish a facility is requested. To maintain the Minimum Standards, administrative agencies may: demand the head of child welfare facilities to submit reports; enter the facilities; examine the equipment; recommend/order necessary improvements; and order the suspension of operation.

Table 4. Trends in child welfare facilities

	1965	1975	1985	1990	1993	1994
Child welfare facilities	14 020	24 546	33 309	33 176	33 242	33 234
Maternity clinics	479	1 032	780	635	588	5 74
Infant homes	127	129	122	118	117	117
Mothers' homes	621	424	348	327	315	312
Day-care centres	11 199	18 238	22 899	22 703	22 584	22 526
Protective institutions	546	525	538	533	530	529
Homes for mentally retarded children	219	349	321	307	300	297
Homes for autistic children	-	-	8	8	7	7
Schools for mentally retarded children	56	175	218	215	217	222
Nursery homes	32	32	28	21	21	20
Facilities for children with auditory/speech disabilities	38	34	24	18	17	17
Facilities for children with hearing difficulties	-	-	23	27	26	26
Facilities for physically weak children	32	34	34	33	33	33
Homes for physically handicapped children	62	77	74	72	72	70
Schools for physically handicapped children	-	39	70	73	77	79
Hospital-homes for physically handicapped children	-	-	8	8	9	8
Facilities for severely handicapped children	3	39	56	65	73	76
Short-term clinics for emotionally disturbed children	4	10	11	13	14	16
Homes for juvenile training and education	58	58	57	57	57	57
Children's halls	544	2 117	3 517	3 840	4 028	4 081
Recreation centres for children	-	3 234	4 173	4 103	4 157	4 167

Source: Survey by the Ministry of Health and Welfare.

C. Right to life, survival and development (art. 6)

The right to life

59. Article 31 of the Constitution prescribes that "no person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, except according to procedures established by law," guaranteeing the inherent right of all people including children, to life.

Survival and development

60. Article 25 of the Constitution stipulates that all people shall have the right to maintain the minimum standards of living, ensuring the right of all people, including children, to live. Furthermore, paragraph 2 of article 1 of the Child Welfare Law provides that "the life of each and every child shall equally be guaranteed and protected," and article 3 of the Maternity and Child Health Law prescribes that "in order to ensure the sound growth of infants and toddlers, both in mind and body, their health shall be maintained and enhanced." According to those provisions and other relevant domestic laws, the Government has been implementing various measures to ensure the survival and development of children, which have been consolidated every year. (For the substance of measures, refer to VI A and C)

D. Opportunity to express views (art. 12)

61. In Japan, the Constitution prescribes respect for the dignity of individuals in article 13, freedom of thought and conscience in article 19, and freedom of expression in article 21. Thus, the child's right to express views freely in all matters affecting them is guaranteed.

62. With regard to all matters on which anyone is generally guaranteed the opportunity to be heard in any proceedings of a judicial and administrative decision or measure affecting him/herself, the child is also provided the opportunity to present his/her view, as described below. When decisions are to be made or measures are to be taken on such matters, utmost consideration is paid to the child's best interests.

Judicial proceedings

63. In Japan, anyone who is a party to, or an interested person in a trial is guaranteed the opportunity to present his/her views.

64. Civil procedures and civil conciliation. As minors have no litigation capacity in civil suits, a legal representative is required to take procedural action (art. 49, Code of Civil Procedure). Accordingly, in cases where a minor is a party to litigation, he/she may act as a party through a legal representative and express his/her views. In cases where the minor is not a party to litigation but has a legal interest in the outcome of the proceedings, he/she may participate in the litigation as a supplementary

intervener, conduct proceedings and present his/her views through the legal representative. In civil conciliation, a minor may present his/her views as a party or a supplementary intervener through a legal representative.

65. Actions relating to personal status, family trials and family conciliation. In actions relating to personal status, a minor is considered to be competent to stand trial if he/she is mentally fit. Provided that the minor has the capacity to act, he/she may present his/her views as a party or a supplementary intervener, directly or through a legal representative. In family trials and family conciliation, a minor may, provided that he/she is mentally fit, similarly present his/her views as a party or a supplementary intervener, directly or though a legal representative. As for family trials, the child's statement must be heard if he/she is 15 full years of age or over, in trials on the custody of children upon divorce of parents or recognition, etc and trials on cases involving the designation or change of the person in parental authority. In other cases, or if the child is less than 15 full years of age, the Family Court may hear the child's view ex officio, and there is nothing to impede the child from presenting his/her view voluntarily if he/she wishes to do so.

66. Criminal action and juvenile trials. In juvenile trials, the juvenile, his/her guardian and attendant must be summoned on the day of trial (art. 25, para. 2, Rules of Juvenile Proceedings), and the guardian as well as attendant may express his/her views at the trial after obtaining permission from the judge (art. 30 of said Rules). In addition, the juvenile's relatives, teachers and other persons considered appropriate may be permitted to be present at the trial (art. 29 of said Rules). As the hearing is, in this way, to be conducted in a relaxed and warm atmosphere (art. 22, para. 1, Juvenile Law), careful attention is paid to ensure that the juvenile and his/her guardian, etc. can make statements in a conducive atmosphere. There are provisions for recording the substance of the statement made by the juvenile and others, assuming that juveniles, etc. are afforded opportunities to express their views (arts. 12 and 33 of said Rules). If a juvenile commits a crime, under the Juvenile Law and other laws, the case is to be dealt with by a Family Court which considers whether to take protective measures or not. Only if the person in question is 16 years of age and over and commits an offence punishable by the death penalty or penal servitude or imprisonment, and it is judged necessary for him/her to be tried under the criminal measure, may the case be transferred to undergo criminal procedures. The Code of Criminal Procedure stipulates that the accused and the counsel shall be afforded the opportunity to make a statement on the defendant's case in the opening procedures and that the accused and the counsel may state their views upon completion of the examination of evidence. Furthermore, in the event that the accused makes a statement voluntarily, the judge may require the defendant's statement at any time.

Administrative procedures

67. In Japan, before the dispositions are taken, the Administrative Procedure Law guarantees, in principle, opportunities for hearing statements of opinion or for explanation and rebuttal of adverse dispositions. Under the

Administrative Appeal Law, means to appeal are also recognized ex post facto against administrative dispositions (excluding the appeal against adverse dispositions taken through the procedure of hearing statements of opinion). In this way, the opportunity to have opinions heard is guaranteed. In addition, the opportunity to be heard is also ensured under the provisions for procedures on administrative dispositions and measures respectively.

68. Education. As for the method of education for disabled children, it is firstly considered by the Commission for the Encouragement of School Attendance in view of the child's educational, psychological and medical backgrounds; the board of education then decides on the basis of the Commission's examination and after hearing the opinion of the guardian and others through school consultations, etc.

69. The Government has sent notices to educational institutions to ensure that, in taking disciplinary action, the action has real educational effects instead of just serving as a sanction, and that full attention is paid to the student's condition individually with an opportunity being given to the student to explain the situation and his/her views.

70. Welfare. No child shall be sent to prefectural child welfare facilities against the will of the person in parental authority or the guardian (art. 27, para. 4, Child Welfare Law). Child Guidance Centres shall investigate, diagnose and evaluate the child's condition by having an interview with the child or his/her guardian, and give sufficient consideration to the child or the guardian's opinion when determining the action to be taken as provided for in the Management Guidelines for Child Guidance Centres. In case a child's admission to a day-care centre or home for mentally retarded children is cancelled, the governor, mayor, head of the welfare office and the chief of the Child Guidance Centre shall, in advance, give an explanation of the reasons for the cancellation to the child's guardian and give heed to their views (art. 33, para. 4, Child Welfare Law).

71. Correction. In correctional institutions, the opinions of the child concerned are heard when taking measures affecting the child. For instance, if a child is to be punished or disciplined, the child is informed in person of the suspected facts of the act violating the regulations and is afforded the opportunity to plead his/her case.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

Right to be registered

72. The Family Registration Law of Japan requires submission of the notification of birth within 14 days after birth and stipulates that a child who assumes the surname of his/her father and mother shall be entered in the family register of the father and mother, a child who assumes his/her father's surname shall be registered in the father's family register, and a child who

assumes his/her mother's surname shall be registered in the mother's family register. The provisions of article 8 of the Residents Registration Act, furthermore, require a child to be registered on the resident's card.

73. A foreign child born in Japan is also required to be reported under the Family Registration Law. Any person who finds a deserted child or any police officer who is informed of the finding of a deserted child shall, within 24 hours, give information thereof to the mayor of the city, town, or village. The mayor who has received the information shall give a full name to the deserted child, select the locality of register, and state in a record these facts as well as sex, presumptive date of birth, etc.

Right to a name

74. Article 790 of the Civil Code of Japan provides that a legitimate child assumes the surname of his/her father and mother and an illegitimate child assumes the surname of his/her mother. The Family Registration Law establishes that the name of a newborn child shall be stated in the notification of birth, which shall be submitted after birth.

Right to acquire nationality

75. The Nationality Law of Japan adopts, in principle, the bilineal jus sanguinis principle. It stipulates that a chid shall be a Japanese national when, at the time of birth of the child, the father or the mother is a Japanese national (art. 2, item (1), Nationality Law). However, as there is a possibility that a child born in Japan may become stateless if this principle is applied rigidly, the jus soli principle is also adopted to prevent statelessness. In other words, a child shall be a Japanese national when both parents are unknown or have no nationality in a case where the child is born in Japan (art. 2, item (3)). Though this may still be insufficient to prevent a child from becoming stateless under limited circumstances, such a child may acquire Japanese nationality by naturalization when he/she was born in Japan, had no nationality since the time of birth, and had his/her domicile in Japan for three or more years consecutively since that time (art. 8, item (4)). In the case of a stateless child, the conditions on capacity and capability to make a living are not applied and the residence requirement is minimized enabling the child to acquire Japanese nationality very easily.

Right to know one's parents

76. Pursuant to the Family Registration Law, the full names of the father and mother of a person born in Japan must be stated in the notification of birth, and in case of a Japanese national, the full names of his/her natural parents must be stated in the family register. Any child may, therefore, identify his/her parents from a copy or an abstract of his/her family register and other relevant materials. If paternity has been admitted, an illegitimate child may also identify his/her father, as the father's name and the fact of admitting paternity must be stated in the child's family register under the provisions of article 35 of the Enforcement Regulations of the Family Registration Law.

77. As for special adoptions (refer to para. 145), when a judgement of judicial adoption has become final and the adoptive parents report the fact, an independent family register is made up for an adopted child first in the locality register of his/her natural parents. The adopted child's name is then entered in the family register of his/her adoptive parents and removed from his/her independent family register. Any adopted child wishing to identify his/her natural parents may inquire into the family register of his/her natural parents from which his/her name had been removed. Hence, the child's right to identify his/her natural parents at will is assured even under the special adoption system.

78. The notification of birth must also be submitted in cases where a foreign child is born in Japan. Since the notification of birth is to be preserved for 10 years after the date of reporting, any child may identify his/her natural parents for at least 10 years by examining his/her notification of birth or birth certificate.

Rights to be cared for by parents

79. The Civil Code stipulates that a child who has not yet attained its majority shall be under the custody of the person in parental authority who assumes responsibility for taking care and custody of the child. Children with parents must be cared for in principle by those parents as long as they are married.

B. Preservation of identity (art. 8)

80. To guarantee the child's right to preserve his/her identity including nationality, name and family relationship, the requirements for loss and choice of nationality are prescribed in Japan. That is, a notification is required upon the loss of nationality for the purpose of preventing Japanese nationality from being unlawfully divested of.

81. Upon a change of name, a notification must be submitted to that effect after acquiring permission from a Family Court. With regard to family relations, the range of relatives, name and relations with natural parents, legal residence and the date of birth must be stated in the family register.

82. If elements of identity are illegally withheld from the child, that is, if it is found that the description in the family register is unlawful or includes errors, mistakes or omissions for some reason, the interested persons may apply for the correction of the family register after obtaining permission from a Family Court.

C. Freedom of expression (art. 13)

83. In Japan, freedom of expression is guaranteed to the people, including children, under the provisions of article 21 of the Constitution, and is paid the greatest respect as an essential right for maintaining democracy. On the other hand, the right to freedom of expression has a public nature, unlike freedom of one's inward thoughts. Hence, certain restrictions are imposed on the right to freedom of expression, on the grounds of "public welfare."

Restricted expression includes public indecency and distribution of obscene literature, etc. (arts. 174 and 175 of the Penal Code); defamation, insult and damage to credit (arts. 230, 231 and 233); and riots (art. 106). These restrictions are, however, the minimum necessary in compliance with the provision of paragraph 2 of article 13 of the Convention.

84. As children are in the process of physical and mental development and schools are the places of group living, schools need to establish their own rules for students. The Government has instructed educational institutions to continue to review school rules which relate to day-to-day education and training activities with consideration for the conditions of children, the views of guardians, the current circumstances in the local community, changes of society, and movement with the times.

D. Access to appropriate information (art. 17)

85. In Japan, under the Child Welfare Law, the Broadcast Law, the School Library Law and the Library Law, the following measures have been taken to encourage children to use information and materials from various national and international sources.

86. Establishment of libraries. As of 1993, the number of public libraries where publications, documents and other materials were available for public use amounted to 2,138 throughout the nation. The Government subsidizes local authorities to cover part of the costs involved in building and maintaining libraries and facilities. Every school is also equipped with a library.

87. Recommendations of cultural assets for children. The Central Child Welfare Council and Regional Child Welfare Councils may recommend cultural assets for children to promote the welfare of children and mentally retarded children. In 1951, the Central Child Welfare Council established a subcommittee on cultural assets composed of experts and member of the academic and scientific community, recommending superior cultural assets with which children can enjoy interacting, cultivate aesthetic aptitude and develop various abilities. In 1995, 89 publications, 49 audiovisual materials and 29 theatrical arts were recommended by the Council. Among the cultural assets recommended for children hitherto, superior articles have been selected for infants and elementary school pupils and presented at children's halls throughout the nation.

88. Movies. To promote the production of superior movies for children and popularize them among the general public, the Ministry of Education labels works of high educational value "Selected by the Ministry of Education" and "Specially Selected by the Ministry of Education" (the highest rank); works are examined by the screening subcommittee on educational movies of the Lifelong Learning Council, based on applications from film producers. If selected, the Ministry publicizes the film and launches public relations activities. In 1995, 264 movies were "Selected by the Ministry of Education," and 3 movies "Specially Selected by the Ministry of Education." Among the

educational films useful for social and school education, the Ministry purchases works recognized as "Special Selections" and distributes them to the boards of education in prefectures and designated cities.

89. Broadcasting. The Broadcast Law stipulates that the broadcaster shall, in compiling and broadcasting educational programmes for domestic broadcast, clearly indicate the persons at whom the broadcast is aimed and make the contents of the broadcast appropriate and instructive to such persons; at the same time, means shall be provided so as to allow the general public to learn the plan and the contents of the broadcast in advance. In this case, if the programme concerned is intended for schools, the contents thereof shall conform to the standard of the curricula provided for by the laws and regulations relating to school education.

90. The Government entrusts the planning, producing, broadcasting and conducting of research studies on educational TV programmes to the Association of Private Broadcast Education. This aims to upgrade the quality of educational programmes of private broadcasting companies, enrich home education through TV programmes, and contribute to sound growth of the youth.

International cooperation

91. The Broadcast Law of Japan stipulates that NHK (Nippon Hoso Kyokai) shall endeavour to have Japan correctly understood and promote the status of Japan by introducing Japanese culture in editing and producing programmes for international broadcasting purposes and programmes to be supplied to foreign broadcasting companies. Since April 1991, the Japanese Government has been providing subsidies amounting to roughly ¥200 million per annum for the translation of Japanese educational programmes directed to developing countries through the Japan Media Communication Centre (which is under the joint jurisdiction of the Ministry of Foreign Affairs and the Ministry of Posts and Telecommunications). A total of 478 programmes have been translated from Japanese to English and other foreign languages, and 368 programmes had been provided to 19 countries as of the end of March 1996.

92. The Government provides financial assistance to the Asia/Pacific Cultural Centre for UNESCO, which is conducting a programme of co-publication of children's books and other activities in cooperation with foreign experts in this field, with the aim of providing good and inexpensive reading materials to children in Asian-Pacific region.

93. The Government has been providing educational and cultural broadcast programmes under Cultural Grant Aid as part of its international cultural cooperation. In 1995, two projects (61.1 million Japanese yen based on grants) were implemented under the cooperation in the educational/cultural broadcast sector (educational/cultural programmes).

Protection from injurious information

94. The social environment surrounding children has a strong influence upon the character building of youths, who are still developing. In particular,

information and books found to be harmful to the welfare of children are liable to excite their sexual impulses and aggravate rudeness and cruelty. These often cause delinquency, posing serious problems to the sound growth of children. The Government, therefore, takes the following measures to protect children from such harmful information.

95. The Child Welfare Law establishes that the Central Child Welfare Council and Regional Child Welfare Councils may warn people selling such publications (art. 8, para. 7 Child Welfare Law). Moreover, the Broadcast Law provides that broadcasters in compiling programmes for broadcasting, shall not disturb public security and good morals and manners; shall set out standards for editing broadcast programmes; and shall establish a broadcast programme council to ensure the appropriateness of broadcast programmes.

96. Prefectural authorities establish youth protection ordinances for regulating harmful books, videos, movies and advertisements in consideration of the existing circumstances of local communities. In 1994, the number of materials designated as harmful under ordinances reached 71,828 (see table 5 below). The Government is promoting thorough regulatory measures by the proper application and coordination of the ordinances.

Table 5: Trends in the number of cases designated as harmful under youth protection ordinances

Medium	1990	1991	1992	1993	1994
Total	55 858	73 547	64 332	68 468	71 828
Movies	4 264	3 632	3 201	3 289	2 470
Magazines, etc	20 974	20 068	22 608	20 949	18 304
Advertisements	11	4	3	0	0
Videos	30 609	46 843	38 520	44 230	51 054

Source: Survey by the Management and Coordination Agency.

97. The Government reinforces the protection of children from harmful information in response to changes in the social environment by requesting these industries to impose self-restraint and self-control in providing information. For example, the Motion Picture Code of Ethnics Committee, an independent organization of the movie industry, classifies adult movies and under the said code of ethics prohibits persons below 18 years of age from entering theatres.

98. The drastic diversification of media in recent years has a great influence on society, causing grave concern over their mental and physical impact on children. Under such circumstances, various measures are taken concerning computer software, the Organization for Computer Software Ethics explicitly differentiates adult PC software from ordinary PC software by attaching seals to products which should not be sold to anyone under 18 years of age. In July 1994, the Organization introduced a new "R-rated" category of software which may not be sold to anyone below 15 years of age. In February 1996, the Association of Electronic Networks, organized by providers of personal computer communication services, formulated "the Code of Ethics" and "rules and manners for the users of personal computer communications" as ethical guidelines for the use of electronic networks. Moreover, the police are reinforcing control over such criminal acts as public obscenity, for the first time ever arresting suspects in January 1996 for providing obscene pictures on the Internet. In May 1996, the Government recognized sales of CD-ROMs mainly consisting of nude images as a category of entertainment-related businesses which are subject to the Law on Control and Improvement of Amusement and Entertainment Businesses.

99. Aggressive local activities are also essential for enhancing the protection of children from harmful information. The Government, therefore, encourages such activities of local organizations and residents.

E. Freedom of thought, conscience and religion (art. 14)

100. All people, including children, are guaranteed the right to freedom of thought and conscience under the provisions of article 19 of the Constitution of Japan. With regard to the right to freedom of religion, paragraph 1 of article 20 of the Constitution provides for the guarantee of freedom of religion to all. In addition, paragraph 3 of the said article prohibits the State and its organs from engaging in religious education or any other religious activity. Paragraph 1 of article 9 of the Fundamental Law of Education also states that the attitude of religious tolerance and the social status of religion shall be valued in education.

F. Freedom of association and of peaceful assembly (art. 15)

101. Article 21 of the Constitution of Japan guarantees freedom of assembly and association to all people, including children. These freedoms are restricted to a certain extent on the grounds of public welfare, as is freedom of expression. Restrictions are, however, minimal and conform to the provisions of paragraph 2 of article 15 of the Convention.

G. Protection of privacy (art. 16)

102. In Japan, "non-disclosure of the private life" of all persons, including children, not only by public authorities but also by individuals and private institutions, has been acknowledged as the object of legal protection by the Constitution and judicial precedents of the Supreme Court.

103. Paragraph 1 of article 35 of the Constitution of Japan states that "the right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized ...". In other words, it is provided that the home and belongings of all persons, including children, are protected from intrusion by public authorities. In accordance with such provisions, the Code of Criminal Procedure stipulates that the body, effects or dwelling or any other place shall not, in principle, be seized and searched without the consideration of a judge in that matter. Article 130 of the Penal Code punishes intrusion upon a human habitation, etc. without good reason, and paragraph 23 of article 1 of the Minor Offence Law provides that any person who, without good reason, stealthily peeps into a house, etc. shall be punished. As to doctors, lawyers and the like, who may learn others' secrets in the performance of their profession, the Penal Code and other laws require them not to disclose such secrets. The Penal Code, moreover, stipulates that a person who, without good reason, opens a sealed correspondence shall be punished (art. 133, Penal Code). Tranquility of the private life of individuals is ensured thereby.

104. To prohibit interference with communications, secrecy of communication is protected under the provisions of paragraph 2 of article 21 of the Constitution. The secrecy of letters and telegrams is protected under the Mail Law, and persons who are engaged in postal services must maintain the secrets of other persons which may come to their knowledge in the course of handling postal matters (art. 9, Mail Law). The Telecommunications Business Law also provides for the protection of the confidentiality of communications, stipulating that persons engaged in telecommunications businesses shall maintain the secrecy of other persons' affairs which may come to their knowledge while handling communications (art. 4, Telecommunications Business Law).

105. With regard to the protection of honour and reputation, the Penal Code provides for crimes relating to defamation, insult, and damage to credit. The Civil Code prescribes for the compensation of persons suffering from defamation or damage of reputation. The Guidelines for Police Activities on Juvenile Crimes require the police to give consideration to time and procedures in summoning a child in the course of an investigation/inquiry. The police, for instance, avoid directly summoning a child at his/her school or workplace so as to ensure that the child's reputation and honour are not lost.

106. Furthermore, the Ministry of Education has been instructing educational institutions to pay full consideration to children's rights in cases where school authorities are involved in the private lives of the students in the course of education.

H. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

107. To ensure that children are not treated in a manner that disregards or impairs their dignity or character as a human being, article 13 of the Constitution states as follows: "All of the people shall be respected as individuals. Their right to life, liberty, and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs." It is further prescribed in article 36 that "The infliction of torture by any public officer and cruel punishments are absolutely forbidden", and in paragraph 1 of article 38 that "No person shall be compelled to testify against himself."

108. Under the Constitution, public officers will be accused of abuse of authority if they abuse their authority to cause a person to perform an act which he/she has no obligation to perform, or to obstruct a person from exercising a right which he/she is entitled to exercise. Public officers performing or assisting in judicial, prosecutorial or police functions who abuse their authority and arrest or detain another will be accused of abuse of authority by a special public officer. And when public officers in the performance of their duties commit acts of violence or cruelty upon defendants in criminal actions or on other persons, they will be accused of violence and cruelty by special public officials. If public officers who are guarding or escorting other persons detained in accordance with a law or ordinance commit acts of violence or cruelty upon them, they will also be accused of violence and cruelty by special public officials.

109. As for criminal procedures, paragraph 2 of article 38 of the Constitution states that "Confessions made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence." Paragraph 1 of article 319 of the Code of Criminal Procedure also stipulates that a confession which is suspected not to have been made voluntarily shall not be admitted in evidence, for the purpose of preventing acts of torture, etc. It is also considered that judges and investigators of a Family Court in juvenile court proceedings may be subject to crimes of abuse of authority or violence and cruelty by special public officials. In juvenile hearings, it is established in practice that juveniles have the right to remain silent and any confession admitting the fact of misconduct which is suspected not to have been made voluntarily is to be excluded from evidence.

110. Article 36 of the Constitution prohibits public officers from committing torture and cruel punishment on inmates of correctional institutions. Based on the Prison Law, the Juvenile Training School Law and the Constitution, inmates are to be treated humanely in that: their living quarters, clothes and bedding are kept clean; inmates are given sufficient food in consideration of their constitution, health, age and other conditions; and inmates are given proper medical care. To ensure that inmates in correctional institutions are not subjected to inhumane or degrading treatment, staff of the institutions undergo training programmes, conducted at Training Institute for Correctional Officials and branches located in each region, to learn how to treat inmates

humanely. Moreover, there is a monitor system which enables inspectors to check the practices of correctional institutions. Inmates are afforded opportunities to demand better treatment at correctional institutions through interviews with directors of the institutions and petitions to the Minister of Justice. Furthermore, they can request the court to repeal measures taken against them by the directors of correctional institutions.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5 and art. 18, para. 1)

111. Paragraph 1 of article 818 of the Civil Code of Japan prescribes that a child who has not yet attained majority is subject to the parental power of his/her father or mother. Articles 820 and 857 of the Civil Code stipulate that a person who exercises parental power and is the guardian of a minor has the right and incurs the duties of providing for the custody and education of the child.

112. Article 24 of the Constitution prescribes essential equality of the sexes with regard to matters pertaining to the family. Article 818 of the Civil Code provides for the joint exercise of parental power by the father and mother: parents, in principle, assume joint responsibility for raising and educating a child.

113. Article 1 of the Child Welfare Law stipulates further that "All the people shall endeavour to ensure the sound birth and growth of children, both in mind and body." Thus parents and legal guardians must regard the best interests of the child as their basic concern.

B. Parental responsibilities (art. 18, paras. 1-2)

114. The Government formulated the "New Domestic Action Plan towards 2000 AD (First Revision)" in May 1991, with the aim of creating "a society wherein women and men can participate together". The Government promotes various measures to establish an environment where both women and men can jointly participate in every corner of family and social activities, based on the philosophy of equality of the sexes. The principal targets under the Action Plan are to "correct the rigid conception of dividing roles between women and men" and to "promote the joint participation of women and men in the local community and family life". With regard to the former, the Government aims to correct the conventional idea that "men are for work and women are for families" which divides the roles of the sexes, and conducts public relations activities to encourage the revision of customs and habits in every social place, that is, at home, at the workplace and in the community. In relation to the last, the Government promotes public relations activities to raise the awareness of the general public that women and men are both responsible for housekeeping, child-rearing and nursing and should cooperate with each other to that end.

115. Home education by parents and legal guardians is essential for the formation of children's character. It is therefore important that they learn

about home education in order to be able to determine the best interests of the child and acquire the capacity to respond properly to the needs of the child according to his/her stage of growth. The Government promotes and subsidizes learning activities concerning home education as part of adult education.

116. Home education classes. Since 1964, the Government has been subsidizing municipal authorities conducting programmes that provide parents and interested persons with opportunities to learn "home education". Key subjects include the family environment, such as the role and behaviour of parents as well as relationships among the family members, and the social environment surrounding children, such as the growth of the child and strengthening ties with school education.

117. Assistance programme for fathers' participation in home education. Since 1994, the Government has been subsidizing municipal offices holding home education seminars at companies and other workplaces to encourage the participation of fathers in home education. Some 40 seminars were held in 1994 throughout the country.

118. Provision of information on home education. There are various challenges to home education today, considering the growing worries and concerns about child-rearing among parents and such problematic behaviour of children as bullying. Prefectural authorities have been conducting various programmes for consolidating home education, for instance training experts in home education, providing opportunities to learn about home education, supplying information concerning home education through TV, and establishing telephone consultation services. The Government has been subsidizing these activities with the aim of promoting home education from a broad perspective since 1991. Such subsidies were implemented in 46 prefectures in 1994.

119. As part of child welfare policies, the Ministry of Health and Welfare offers counselling and assistance services to families with children at Child Guidance Centres, Family and Child Guidance Rooms and the Child Commission. The Ministry also implements the Telephone Information Service for Healthy Care, the Child and Family Counselling Service at children's centres, and the Healthy Rearing Counselling Programme for Infants and Toddlers at nursery schools. In 1994, the three services were revised under the Child and Family Counselling Programme to consolidate the framework of counselling services for families and children.

120. To serve as reference materials for persons involved in social education at prefectural and municipal levels, the Government has been regularly producing and distributing the Modern Home Education Series, which are compiled according to the different stages of growth of children. Moreover, it has been publishing the Future Home Education Series for parents and prospective parents since 1994. It has also been working to stimulate home education by holding the Home Education Forum every year since 1992, as a place for cross-generational information exchange on home education and for defining the ideal for cooperation between women and men in child-rearing in the new era.

121. In commemoration of the International Year of the Family in 1994, the Government conducted surveys in six countries, including Japan, to compare and contrast family and household trends, the existing state of home education, and the level of awareness of parents, exposing the distinctiveness and challenges in home education in contemporary Japan.

122. As for child-rearing, there are various assistance programmes provided in the fields of welfare, health/medical care, education and so on under the Child Welfare Law, Social Welfare Service law, Child Allowance Law, Child-Rearing Allowance Law, Law related to the Payment of Special Child-Rearing Allowances, Maternal and Child Health Law, Regional Health Law, Medical Service Law and School Education Law (refer to VI on assistance programmes in the fields of welfare and medical/health care, and to VII A on those in the field of education).

C. Separation from parents (art. 9)

123. Paragraph 1 of article 818 of the Civil Code provides that "a child who has not yet attained majority is subject to the parental power of its father and mother" and article 821 thereof stipulates that "a child shall establish its place of residence in the place designated by the person who exercises parental power". As a child is obliged to reside in the place designated by his/her parents according to their will and cannot be separated from his/her parents by a third party without legal grounds, children are thus inseparable from parents.

124. In Japan, there are cases where "competent authorities ... determine ... that ... separation is necessary for the best interests of the child" as referred to in paragraph 1 of article 9 of the Convention, that is, cases where: the prefectural government places the child in the care and custody of a foster parent or a protective trustee, or sends him/her to Child Welfare Facilities (art. 27, paras. 1-3, Child Welfare Law) as a measure against child abuse by the guardian (art. 28, Child Welfare Law); the Family Court designates the person in parental authority or the custodian upon the divorce of parents by agreement or trial (art. 819, Civil Code, etc.); the custodian of the child is to be changed (art. 766, para. 2, Civil Code); the person in parental authority is to be changed (art. 819, para. 6, Civil Code); the loss of parental authority on the part of the father or mother is pronounced (art. 834, Civil Code).

125. Under the Child Welfare Law, prefectural governments must obtain permission from a Family Court to place a child in the custody of foster parents or a protective trustee or to send him/her to Child Welfare Facilities against the will of the natural parents. The procedures are to be conducted by a Family Court according to the Law for Adjudgement of Domestic Relations and the Special Regulations on Adjudgement of Domestic Relations. In that event, the statement by the person who currently has the custody of a child and the person in parental authority (or the guardian in cases where he/she is not in parental authority), and the person in parental authority of the protected person or the guardian must be heard respectively (art. 19, para. 1,

Special Regulations on Adjudgement of Domestic Relations). The statement by the child, if 15 full years old or more, must also be heard (art. 19, para. 2).

126. Designation and change of the person in parental authority and the guardian and the pronouncement of the loss of parental power are made in the Family Court pursuant to the Civil Code, the Law for Adjudgement of Domestic Relations and the Regulations on Adjudgement of Domestic Relations. The said Regulations prescribe the voluntary participation of interested persons in the event (arts. 14 and 131), and persons found to have an interest in the case may also participate in the procedure with permission from the Family Court. In cases where the Family Court conducts a hearing to designate or change the person in parental authority or to assign the guardian, the Court must hear the statement of the child if he/she is 15 years of age or more, under the provisions of articles 54 and 70 of the Regulations.

127. Though there are no express provisions in cases where the child is below 15 years of age, the Family Court hears the statement of the child by pertinent means, such as ordering ex officio the investigator of the Family Court to inquire into the case (art. 7, Regulations). In addition, it does not prevent the child from making a voluntary statement.

Right to maintain personal relations for a child separated from one or both parents

128. A child who is separated from one or both parents as referred to in paragraph 3 of article 9 of the Convention, may be considered, in concrete terms, as a child one or both of whose parents are, or who him/herself is detained in a Juvenile Training School, a Juvenile Classification Home, prison, immigration centre or mental hospital. Relevant laws and regulations prescribe as follows for the facilities and institutions, under which various measures are taken:

(a) In a Juvenile Training School, permission for meetings, correspondence and dispatch/receipt of parcels must be granted unless it is found to be obstructive to correctional education (arts. 52 and 55 of the Juvenile Training School Treatment Regulation);

(b) In a Juvenile Classification Home, the child is permitted to meet relatives, guardians, attendants and other persons who are deemed necessary for the child. Correspondence is also allowed in so far as it does not harm discipline (arts. 38 and 40 of the Juvenile Classification Home Treatment Regulation);

(c) In a prison, the prisoners are permitted interviews and correspondence with their relatives (arts. 45 and 46 of the Prison Law);

(d) In an immigration centre, maximum freedom is guaranteed in so far as it does not pose a threat to the security of the centre (art. 61, para. 7,

Immigration Control and Refugee Recognition Law), and meetings and correspondence are basically allowed (arts. 34 and 37 of the Regulations for Treatment of Detainee);

(e) In a mental hospital, communications and meetings are in principle unrestricted (art. 37 of the Mental Health Law, the Law relating to the Welfare of Mentally Handicapped Persons, and Notification No. 130 in 1988 issued by the Ministry of Health and Welfare).

129. The following measures are taken to provide the family with essential information concerning the whereabouts of the absent member(s) of the family as referred to in paragraph 4 of article 9 of the Convention:

(a) As for the whereabouts of a person housed in a correctional institution he/she is made to notify relatives of his/her whereabouts by correspondence; if he/she is illiterate, the staff of the institution will write a letter in his/her place. As for the whereabouts of a person housed in a Juvenile Training School or a Juvenile Classification Home, his/her relatives are informed without delay by dispatch of notices of detention or transfer from the institution;

(b) Upon the death of a person under detention, his/her relatives are promptly informed of the cause of death, the date of death and other necessary information by such reasonable means as telephone, etc.;

(c) If relatives make inquiries as to whether a specific foreigner is detained in an immigration centre as provided for in the Immigration Control and Refugee Recognition Law, their inquiries are answered after investigation;

(d) Upon the death of a foreign person under detention in a centre which is established under the provisions of the Immigration Control and Refugee Recognition Law, his/her family is promptly informed of the date of death and the cause of death;

(e) If the family makes inquiries as to whether a specific foreigner has been given a deportation order, they are informed of his/her destination, time/date of deportation and the flight number of the airplane.

D. Family reunification (art. 10)

130. The freedom of Japanese nationals to leave and enter the country is guaranteed under paragraph 2 of article 22 of the Constitution, which prescribes freedom to move to a foreign country. Although there is no explicit provision in the Constitution for the right to return to the country, it is interpreted that such right is guaranteed as a matter of course. The Immigration Control and Refugee Recognition Law merely provides for procedures to confirm Japanese nationals upon leaving from and returning to the country (arts. 60 and 61), and no provision exists which restricts departure from or re-entry into Japan. Pursuant to article 25 of the Immigration Control and Refugee Recognition Law, foreign persons may leave Japan in so far as the departure is confirmed by the immigration officer, and the right to leave Japan is also guaranteed for the children and parents of foreigners.

131. As provided for in the Immigration Control and Refugee Recognition Law, the application for entering and leaving Japan is also handled in proper ways in conformity with the provisions of paragraph 1 of article 10 of the Convention.

132. In Japan, however, there may be cases where the issuance of ordinary passports is restricted with respect to those who are involved in crime or might injure the interests of Japan or disturb public order, etc. as prescribed in the respective subparagraphs of paragraph 1 of article 13 of the Passport Law. Moreover, any foreigner who is prosecuted for a felony or subject to an arrest warrant may be temporarily prevented from leaving the country under the provisions of article 25-2 of the Immigration Control and Refugee Recognition Law. The restrictions are nevertheless minimal and in conformity with paragraph 2 of article 10 of the Convention.

133. The Japanese Government opened Immigration Information Centres in the Immigration Bureaux of Tokyo, Osaka and Nagoya and at the Yokohama Branch, where full-time special counsellors who are fluent in foreign languages are in charge of dealing with inquiries concerning the entry and residency of foreign nationals in Japan every day except on weekends and national holidays, on the basis of interviews and telephone consultations. At other Immigration Bureaux where Information Centres are yet to be established, counselling desks are available for foreigners having problems with entrance and residency in Japan. The Government is thereby working to provide information for family reunification.

E. Recovery of maintenance for the child (art. 27, para. 4)

134. The schemes described in the following paragraphs are operating in Japan.

135. If a child is to recover maintenance in Japan in cases where his/her parents or other persons having financial responsibility for the child live in Japan. Maintenance for the child may be requested as: (i) part of marriage expenses during a matrimonial relationship; (ii) part of care-and-custody expenses for the child upon divorce; or (iii) performance of the parents' duty to raise the child. The means to recovery, as provided for in the Law for Adjudgement of Domestic Relations, include: (i) conciliation with regard to the said issues; (ii) claim for part of marriage expenses in a contentious case; (iii) claim for maintenance in a contentious case regarding the care and custody of the child; (iv) claim for maintenance in a contentious case concerning financial support for the child; (v) collateral claims upon a divorce suit under the provision of paragraph 1 of article 15 of the Law of Procedure in Actions Relating to Personal Status. Aside from judgements on the approval of collateral claims in divorce suits referred to in (v), protocols recording the consent and adjudications ordering the issuance of maintenance have the same effect as a title of obligation with executory power. Therefore, maintenance may be recovered by compulsory execution if the obligor fails to perform his/her obligation voluntarily. In addition to compulsory execution mentioned above, the Law for Adjudgement of Domestic Relations establishes a framework for ensuring the obligor meets his/her

domestic liabilities, under which the Family Court may recommend or order the performance of the duty as ruled by conciliation or adjudgement. A total of 9,610 domestic cases involving recommendations to meet financial obligations were settled in 1994, out of which 6,411 cases were settled with liabilities fully or partially met. In cases where an agreement is concluded with regard to the payment of maintenance, the performance of the maintenance agreement may be demanded by instituting a lawsuit.

136. If a child is to recover maintenance in Japan in cases where his/her parents or other persons having financial responsibility for the child live in a different country from the child. As the case of trial on maintenance shall be handled by the Family Court exercising jurisdiction over the domicile of the adverse party (art. 94, para. 1, Regulations on Adjudgement of Domestic Relations), the child may demand conciliation or trial on maintenance to the Family Court exercising jurisdiction over the last domicile of his/her parents, etc. If the most recent address of a child's parents in Japan does not exist or cannot be identified, the child may demand conciliation or trial on maintenance to the Family Court exercising jurisdiction over the place where the property is situated in Japan or where the Supreme Court designates. If an agreement on the maintenance for the child is concluded between parents, etc. the child may enter an action to the District Court or Summary Court exercising jurisdiction over the place of the most recent address of the parents or the place of performing the duties under the maintenance agreement. If property of parents, etc. which may be attached exist in Japan, the child may enter an action to the District Court or Summary Court exercising jurisdiction over the region where the property is situated. Moreover, if a judgement or decision has been passed by any court in Japan on the payment of maintenance, the property may be subject to compulsory execution pursuant to the judgement or decision for the child.

137. With regard to the maintenance obligation, Japan acceded to the Convention on the Law Applicable to Maintenance Obligation in respect of Children on 22 July 1977 and the Convention on the Law Applicable to Maintenance Obligation on 5 June 1986.

F. Children deprived of a family environment (art. 20)

138. As provided for in the Child Welfare Law, a child without a guardian or a child whose guardian is regarded as inappropriate to take care and custody of him/her is subject to temporary protection at the Child Guidance Centre. At the same time, if necessary, the child is transferred to an infant home or a protective institution. A foster-family system is also established under the provisions of the Child Welfare Law.

139. Infant homes. Infant homes are institutions for accommodating and rearing infants less than 12 months old in need of protection. As infants generally have little resistance to illness, infant homes give due attention to medical care in the operation of facilities. Therefore, doctors and nurses are stationed, paying special attention to the health care of infants.

On 1 March 1995, the number of infant homes totalled 117 and the total capacity amounted to 3,831 infants; 2,752 infants were being taken care of as of that date.

140. Protective institutions. Protective institutions are established for the purpose of protecting children without guardians, abused children, and others in need of protection on environmental grounds, excluding infants. Recent trends show that more children who are not offered proper care even if they do have parents are entering protective institutions. Entrance of children due to the disappearance, divorce and long-term illness of parents is on the increase, in addition to those for parental neglect and child abuse (see table 6).

Table 6. Children entering protective institutions, by reason

(unit %)

	Findings of 1987 survey	Findings of 1992 survey
Total percentage	100.0	100.0
Death of parents	7.5	4.7
Disappearance of parents	26.3	18.5
Divorce of parents	20.1	13.0
Abandonment	1.3	1.0
Long-term confinement by father or mother	4.7	4.1
Long-term illness of father or mother	11.5	11.3
Abuse/exploitation	2.9	3.5
Neglect/indolence/abnormal mentality of father or mother	11.5	9.7
Other reasons	14.3	34.2

Source: Survey by the Ministry of Health and Welfare.

Note: Parents include one or both of the parents.

Table 7. Number of protective institutions (1 March 1995)

Number of institutions:	529	(public:	69,	private:	460)
Capacity of accommodation:	33 406	(public:	4 492,	private:	28 914)
Number of children:	26 929	(public:	2 954,	private:	23 975)

141. Foster-parents. Foster-parents are volunteers, with the recognition of the mayor, who wish to take care at their homes of a child who either has no guardian or whose guardian is deemed to be inappropriate to take care of the child. Although nationwide campaigns are being launched to seek foster-parents every year to promote and encourage the idea of becoming a foster-parent, the number of foster-parents and foster-children have both been declining drastically. This has resulted from the reluctance of guardians to entrust children to others' care owing to the confusion with adoption, and from the low interest among the general public because of the common belief that one must be an extraordinary philanthropist to become a foster-parent (see table 8).

Table 8. Annual trends in the number of foster-parents and fostered children

	Number of registered foster-parents	Number of practising foster-parents	Number of foster-children
1970	13 621	4 075	4 729
1975	10 230	3 225	3,851
1980	8 933	2 646	3 188
1985	8 659	2 627	3 322
1990	8 046	2 312	3 006
1991	8 163	2 183	2 671
1992	8 122	2 159	2 614
1993	8 164	2 206	2 579
1994	8 044	2 029	2 475

Source: Survey by the Ministry of Health and Welfare.

Given these facts, the Government has overcome the conventional idea that foster-parents must be humanitarians, and then has been working to promote the new foster-parent system since 1987, with a view to seeking foster-parents and educating the average person to become a praiseworthy foster-parent.

G. Adoption (art. 21)

142. The Civil Code defines two types of adoption in Japan: ordinary adoption and special adoption.

143. Ordinary adoption. Ordinary adoption creates a legal parental relation between the adoptive parents and the adopted child who acquires the status of a legitimate child. If the child to be adopted is a minor, leave from the Family Court is a requirement in principle for the adoption to be effective,

excluding cases described below, and the adoption comes into effect upon the acceptance of notification. As for adoption, ex post facto remedies are secured on the basis of dissolution of the adoptive relation by agreement (art. 811, Civil Code), dissolution by action (art. 814) and judgement on forfeiture of the parental power (art. 834). The Family Court determines the case on the basis of whether adoption is consistent with the welfare of the minor, ensuring the child's best interests thereby.

144. Leave from the Family Court is not required in cases where a person is to adopt a minor who is a lineal descendant of him/herself or his/her spouse, because such adoption normally has little risk of impairing the welfare of the child. Even in these cases, however, officers in charge of the family register may only acknowledge the adoption after examining the essential conditions for the adoption. For example, if the child to be adopted is less than 15 years of age, they examine whether the adoption is accepted by the legal representative, whether it violates other laws and regulations, whether it amounts to adoption of a minor who is a lineal descendant of the adoptive parent or his/her spouse, etc.

145. Special adoption. Special adoption is effected if a child is, in principle, under six years of age at the time of request, by the Family Court's judgement made upon request from the person intending to become an adoptive parent, rather than by agreement between the adoptive parents and the adopted child. In special adoption, the family relation between the adopted child and his/her natural parents in addition to his/her blood relatives is terminated. Therefore, the special adoption is effected only if the care and custody of a child by his/her natural parents is extremely difficult or if the parents are unfit and there is an extraordinary need in the interests of the child. In addition, consent of the child's parents is also required for the special adoption to take effect, excluding cases where his/her parents cannot express their views or substantial injury is inflicted upon the interests of the child to be adopted (e.g. the child is abused by his/her parents). While an ex post facto remedy for special adoption is ensured by the forfeiture of parental power (art. 834 of the Civil Code), dissolution is basically not allowed. The Family Court may, nevertheless, have the concerned parties dissolve the special adoptive relation on application of the adopted child, his/her natural parents or the prosecutor in cases where his/her parents are acknowledged to be capable of taking care of the child to a considerable extent and special need in the interest of the adopted child is recognized, due to abuse by the adoptive parents or other cause that is seriously harmful to the child (art. 817, para. 10, Civil Code).

146. International adoption. Japan recognizes both the adoption of foreign children by Japanese nationals and the adoption of Japanese children by foreign nationals.

147. Adoption of foreign children by Japanese nationals. As for substantial requirements for making an adoption effective, the Civil Code of Japan serves as the governing law. If the domestic law of the foreign adopted child's country prescribes requirements for the protection of adopted children (e.g. approval/consent of the adopted child or a third party, permission

from public authorities or other procedures), these requirements need to be satisfied (art. 20, para. 1, Law concerning Application of Laws in General). As for formality requirements, the laws of Japan serve as the governing laws (art. 22). Accordingly, ordinary adoption is effected upon acceptance of a notification submitted with annexed documents proving that these requirements are satisfied following the procedures prescribed by the Family Registration Law. In special adoption cases, the notification is to be submitted after the adoption is enforced by the adjudication of the Family Court.

148. Adoption of Japanese children by foreign nationals. As for substantial requirements for making an adoption effective, the domestic laws of the country of the foreign adopter function as the governing laws. None the less, requirements for the protection of children under the provisions of the Civil Code of Japan also need to be satisfied in that event (art.20, para. 1, Law concerning Application of Laws in General). With regard to formality requirements, either the law providing for the effectuation of adoption or the laws of Japan (law of the place of the act) become the governing laws (art. 22 of the Law concerning Application of Laws in General). If the laws of Japan are to be applicable, procedures prescribed by the Family Registration Law referred to above are to be followed.

149. The Penal Code of Japan provides for the punishment of anyone who kidnaps another by force, threat, fraud or enticement for the purpose of profit or transporting him/her out of Japan, who buys or sells another for the purpose of transporting him/her out of Japan, or who transports another out of Japan who has been kidnapped or sold. The Penal Code also prescribes punishment of anyone attempting to commit these acts, including Japanese nationals who commit such crimes abroad. Thereby, it is ensured that international adoption does not bring illegitimate financial benefits to the parties concerned. Under the provisions of the Child Welfare Law, moreover, each and every person other than a legally authorized employment agent for adults and children is prohibited from acting as a child-rearing intermediary for profit-making purposes, and anyone who violates the provisions is subject to punishment. Should the Family Court confirm that the adoption of a minor amounts to traffic in human beings, the adoption in question would not be permitted as it would obviously be injurious to the welfare of the child.

Table 9. Statistical table of adoption cases

Case type		1991	1992	1993	1994	1995
Regular adoption	Application	2 006	1 761	1 839	1 646	1 603
	Acceptance	1 529	1 310	1 258	1 205	1 111
Special adoption	Application	852	700	680	722	558
	Acceptance	619	509	520	491	521
International adoption	Application	512	437	484	451	452
	Acceptance	381	359	337	339	299

Source: Survey by the Supreme Court.

H. Illicit transfer and non-return (art. 11)

150. In Japan, a person who kidnaps a minor by force, threat, fraud or enticement, kidnaps another by the same measures for the purpose of transporting him/her out of Japan, who buys or sells another for the same purpose, or who transports another out of Japan who has been kidnapped or sold shall be punished under the provisions of article 224 and paragraphs 1 and 2 of article 226 of the Penal Code. The Penal Code also prescribes punishment of anyone attempting to commit these acts. The provisions of subparagraph 7 of paragraph 1 of article 34 of the Child Welfare Law prohibits acts transferring custody of a child to a person who is liable to violate any of the penal laws and regulations, knowing such fact, or acts transferring custody of such a child to any other person, knowing that the child will be handed over to others for such purposes, and prescribes punishment on the offender thereof.

I. Abuse and neglect (art. 19)

Protection of children from abuse, etc.

151. In Japan, the law protects children with the following actions. Under the Child Welfare Law, the person who identifies a child whose guardian is found to be unfit to take care of the child must notify the Child Guidance Centre to that effect. In cases where a guardian or tutor as a person of parental authority abuses or fails to take care of a child, or if the child's welfare is injured by placing him/her under the care and custody of the guardian, etc. the Child Guidance Centre may send the child to an infant home or a protective institution. As an ex post facto measure, a prefectural governor may give orders and require a report on the protection of the child from the head of institutions. If a guardian disagrees with the child's admission to the institution, the governor may take such measures with the Family Court's approval. The Civil Code of Japan stipulates that the Family Court may remove a guardian from parental authority if he/she abuses the parental rights. (The head of the Child Guidance Centre may also claim for adjudication for the loss of such a guardian's parental authority.) If there has been misconduct by the guardian, the Family Court may discharge him/her from the position of tutor.

152. If it is found that a child is assaulted or abused and there is a suspicion that his/her human rights are being violated, the civil liberties organs initiate an investigation of the matter as a case involving infringement upon human rights. If findings prove that the infringement is true, the organ makes the violator realize his/her fault by explaining it to the parties, with the aim of eliminating the infringement on human rights and preventing recidivism. If necessary, the civil liberties organs report the matter to Child Guidance Centres to protect the child in concert. In 1995, out of 16,296 cases involving infringement upon human rights, cases of child exploitation/abuse by parents numbered 615, whereas coercion and oppression cases amounted to 356.

153. The police give advice to juveniles, parents and other interested persons as part of their activities to prevent juvenile delinquency and enhance child welfare. In 1995, 178 incidents of child abuse were brought to the police for advice. If an incident of child abuse is identified through such consultation activities and other police practices, the police handle it as a case subject to law. The police endeavour to protect abused children even when the abuse cannot be handled as a formal case by cooperating with relevant institutions: for instance, the police notify the Child Guidance Centre and give temporary protection to the child upon the Centre's request if it is found to be inappropriate to leave the child in the guardian's custody.

Prevention of child abuse, etc.

154. Recently in Japan, the environment surrounding the family has changed due to the growing prevalence of the nuclear family and the progress of urbanization. This has brought about complex problems such as weakening of the child-rearing capacity of families. Cases of child abuse by parents have been increasing rapidly, from 1,001 cases in 1990 to 1,961 cases in 1994. One of the factors causing child abuse is that parents in charge of child-rearing feel insecure and frustrated due to changes of family environment in which parents and children are becoming more detached from one another. In consideration of such trends, the following measures have been taken for the effective prevention of child abuse.

155. Child Guidance Centre (175 centres, as of 1995). Every prefectural government is obliged to establish Child Guidance Centres which offer advisory services to families and other persons on various problems concerning children. For people who cannot visit, Centres make staff calls at home and provide telephone consultation services such as "dial 110 (emergency) for children and families" supported by the Experts' Team for Children and Families.

156. Family and Children's Guidance Room (1,044 rooms, as of 1994). Family and Children's Guidance Rooms are located in welfare administrative offices, which are familiar to residents. In the Rooms, family consultants and social welfare managers are posted to provide counsel/guidance services for various child-rearing problems in ordinary families, working to identify and instruct troubled children in earlier stages.

157. Child Commissioner (210,000 commissioners as of 1994). Posted in every city, town and village, Commissioners work to understand children's lives and their environmental conditions and engage in relief activities related to child protection, health, welfare and so forth.

158. As mentioned above, the number of cases of child abuse is increasing. Though child abuse used to be considered a private family problem, today it is recognized as a social problem which scars ordinary families. In response, the "Urban In-Home Family Support Scheme" (refer to para. 17) and the "Model Project for the Management of Child Abuse Cases" (refer to para. 18) have been

adopted to reinforce protection for children. The Government intends to encourage public relations activities to raise public awareness of the issue as well as consolidate various measures to prevent child abuse.

Recovery and rehabilitation of abused children

159. Under the Child Welfare Law, Child Guidance Centres give temporary care to abused children until they return to child welfare facilities or their families. A Child Guidance Centre consists of a chief child counsellor, a child welfare officer and a psychoanalyst in charge of providing temporary care to children. They work to protect children from abuse and exploitation by sending them to infant homes and protective institutions according to the children's conditions and family environments.

J. Periodic review of placement (art. 25)

160. As principal establishments which admit children for the purpose of care, protection or treatment of his/her physical and mental health, the following child welfare facilities are available: infant homes, protective institutions, homes for mentally retarded children, facilities for children with auditory/speech disabilities, facilities for physically weak children, homes for physically handicapped children, facilities for severely handicapped children, short-term clinics for emotionally disturbed children and homes for juvenile training and education. Article 46 of the Child Welfare Law provides for the right of administrative agencies to demand to examine these facilities to ensure they maintain the minimum standards. In accordance with this provision, a prefectural governor is required to enter and examine these facilities generally every six months under paragraph 2 of article 12 of the Enforcement Ordinance of the Child Welfare Facilities.

VI. BASIC HEALTH ANT WELFARE

A. Survival and development (art. 6, para. 2)

161. The Government has been undertaking the following measures under the provisions of the Maternal and Child Health Law on the basis of the idea that the health of infants and toddlers must be maintained and enhanced so as to ensure their sound growth both in mind and body. (A variety of other maternal and child health measures are taken. Refer to VI C for details.) Consequently, the infant and neonatal mortality rates have drastically improved.

Table 10. Infant and neonatal mortality rates

	Infant mortality rate (per 1,000 newborns)	Neonatal mortality rate (per 1,000 newborns)
1960	30.7	17.0
1970	13.1	8.7
1980	7.5	4.9
1990	4.6	2.6
1994	4.2	2.3

Source: Survey by the Ministry of Health and Welfare.

162. Measures for underweight infants. In Japan, if a newborn baby weighs less than 2,500 g, the Health Centre shall be notified to that effect and, if necessary, the Government will provide call-at-home guidance for premature babies and medical allowances for child-rearing.

163. Measures for premature babies. As a premature baby tends to be physiologically immature and prone to illness, the death rate is higher compared with average babies. Because premature babies require extensive medical treatment, the Government bears the medical expenses involved and, if necessary, provides call-at-home guidance services.

164. Pediatric support. Physically handicapped children are provided with rearing and medical benefits and artificial body parts. Children suffering from tuberculosis receive rearing/medical allowance. Moreover, 33 institutions for physically weak children are established throughout Japan aiming to engage in medical control of their health. The Government gives aid for medical expenses to children suffering from cancer and chronic diseases.

165. Consolidation of the pregnancy care system. The Government has been improving the Newborn Intensive Care Unit (NICU) and the Pregnant and Foetus Intensive Care Unit to cope with unexpected, emergency situations associated with pregnancy and delivery. Moreover, there has been developing a Doctor Car System for carrying doctors and nurses to give medical treatment, with the aim of facilitating the transportation of newborn babies from hospitals to NICUs. In 1996, it started to subsidize the operating costs of the General Pregnant and Infant Medical Treatment Centre, reinforcing care of the health of pregnant women and newborn babies before and after parturition, especially for those with high risks.

B. Disabled children (art. 23)

166. The Fundamental Law for People with Disabilities provides that, as an individual, the dignity of each and every handicapped person shall be respected; he/she shall have the right to be treated with regard for such inherent dignity; he/she shall be afforded the opportunity to participate in

social, economic and cultural activities, etc. as a member of society: he/she shall strive to participate actively in socio-economic activities by utilizing his/her abilities; and his/her family shall endeavour to enhance his/her independence. Further, the Child Welfare Law prescribes that the life of each and every child shall be equally guaranteed and protected.

167. The number of physically handicapped children was about 92,500 in 1987 and 81,000 in 1991, showing a downward trend. The population of mentally handicapped children was about 100,000 in 1990. Both physically and mentally disabled children will be referred to as "disabled children" hereinafter.

Table 11. Number of disabled children

	Total	0-4 years old	5-9	10-14	15-17
Physically disabled children (as of 1991)	81 000	12 100	23 300	24 700	18 900
Mentally disabled children (as of 1990)	100 000	10 300	25 300	36 500	27 800

Source: Survey by the Ministry of Health and Welfare.

168. Under the domestic laws mentioned above, the Government is applying various measures broadly in such fields as welfare, health, medicine, education, employment and so forth to minimize handicaps and ensure that disabled children are able to lead lives like non-handicapped children. However, in the social environment surrounding disabled children (persons), there are still physical obstacles in transport facilities, buildings and so on, in addition to cultural and information barriers such as the lack of Braille and sign-language services. It is crucial to eliminate these obstacles, to encourage disabled children (persons) towards self-support, and to establish an equal society where they can participate in social activities without any difficulties. The Government formulated the Plan for Disabled Persons in December 1995, for which policy targets will be specified and health/welfare measures for disabled persons will be implemented systematically.

Welfare and medical treatment

169. Policies for health and medical care. To identify retardation and disability in the physical or mental constitution and take swift and adequate measures, the Government conducts medical examinations for infants and mass-screening tests for newborn babies to detect cogenetic metabolic disorders (such as phenylketonuria) and cretinism.

170. In-home welfare service. To advise disabled children and their parents/guardians, Health Centres give health guidance not only on a group basis such as Mother (Parents) Classes, but also on an individual basis through call-at-home counselling. They also give instructions on medical care

so that children with physical disabilities and those with risks of functional disorders in the future may receive prompt and proper medical treatment and welfare services. Under the Child Welfare Law, moreover, the Government conducts the following programmes:

(a) Provision of appliances for daily living. The Government gives or lends appliances for daily living for the convenience of handicapped children who have difficulties in everyday life;

(b) In-Home Child-Care Service Programme (home-helper programme for disabled children/persons). The Government supports families with severely disabled children who cannot lead normal everyday lives themselves, by sending home-helpers for daily care including housekeeping, medical care and so on, so that those children can enjoy a stable life.

Table 12. Trends in the number of home-helpers

Year	1994	1995
Number of home-helpers	59 005	92 482

Source: Survey by the Ministry of Health and Welfare.

(c) Children's Day-Care Service Programme (schooling programme for disabled children). Under this programme, disabled children receive guidance on how to undertake basic motional tasks required in everyday life and to undergo training to adapt to communal life.

Table 13. Trends in the number of schools under the schooling programme for disabled children

Year	1994	1995
Number of schools	292	297

Source: Survey by the Ministry of Health and Welfare.

171. To lighten the economic burden imposed on families, the Government provides special child-rearing allowances and disabled-child welfare benefits. In 1996, the Government-run postal saving programme will offer favourable interest rates on fixed-time deposits to families with bedridden children to promote self-support efforts in mitigating their economic burden.

172. Institutional welfare services. Various institutions are available for the active treatment and training of children, as homes, in accordance with the degree of disability, and as centres for assisting with employment and promoting social participation. These include facilities for mentally retarded children and physically handicapped children, nursery homes, institutions for children with auditory/speech disabilities, nurseries for infants with hearing difficulties, and facilities for severely disabled children. Admission to these child welfare institutions is free if the parents' income is below a certain level.

Table 14. Current status of institutions for disabled children (1 October 1994)

	Number of institutions (facilities	Capacity (persons)	Number of staff (persons)
Institutions for mentally disabled children	296	18 182	14 943
Institutions for autistic children	7	336	227
Schools for mentally disabled children	222	8 202	6 769
Institutions for physically disabled children	70	7 938	5 202
Schools for physically disabled children	79	3 260	2 358
Clinics for physically disabled children	8	425	287
Institutions for blind children	20	707	242
Institutions for children with auditory/speech disabilities	17	643	269
Schools for children with hearing difficulties	26	860	642
Institutions for severely handicapped children	76	7 778	7 559
National clinics for children suffering from myotonia	27	1 772	997
National clinics for persons with advanced diseases	80	8 080	7 717
Rehabilitation centres for mentally disabled persons	1 040 224	68 592 9 431	68 901 8 614
Maternity clinics for mentally disabled persons	205 1 562	12 138 21 766	11 793 21 224
Dormitories for mentally disabled workers	111	2 635	2 475
Welfare homes for mentally disabled persons	55	632	22

Source: Survey by the Ministry of Health and Welfare.

Education

173. The Government provides special education for children who have difficulties attending regular classes or are unlikely to make educational progress through regular classes due to their disabilities, with full consideration paid to the type and degree of disability. Its objectives are to embody individuals' talents and to help them support themselves and participate in society. Moreover, special courses corresponding to each disability are also available at schools for children with visual impairments, children with hearing impairments and handicapped children, in addition to special classes, etc. in elementary and lower secondary schools. In such courses, classes are kept small, teachers with expert experience and knowledge are posted, and consideration is paid to make institutions and facilities "handicapped-friendly". As of 1994, the number of schools for children with visual impairments, children with hearing impairments and handicapped children, and the number of students, were as follows:

Table 15. Number of special schools and students

Type of school	No. of schools	No. of students
Schools for children with visual impairments	70	4 696
Schools for children with hearing impairments	107	7 557
Schools for the otherwise handicapped	791	74 966

Source: Survey by the Ministry of Education.

Table 16. Number of special classes and students

Type of school	No. of schools	No. of students
Elementary schools	14 835	44 319
Lower secondary schools	7 014	22 632

Source: Survey by the Ministry of Education.

174. The Government implements various measures to consolidate the special education system. For example, as a new form of special education, the Government introduced a system of teaching disabled children in ordinary classes in 1993, under which students with minor disabilities are given education in regular classes most of the time and receive special guidance corresponding to the disability in resource rooms.

Table 17. Number of students receiving special support services in resource rooms

Type of school	No. of students
Elementary schools	13 628
Lower secondary schools	141

Source: Survey by the Ministry of Education.

175. The Government provides allowances to encourage special education covering part or all of the expenses involved for entering schools for children with visual impairments, children with hearing impairments and handicapped children, depending on the guardian's income capacity. It aims to lighten the economic burden imposed on the guardian and encourage the schooling of disabled children, in consideration of the special conditions for attending such schools. In 1994, for the purpose of expanding the scope of allowances, the Government has raised allowances as well as their frequency to cover travel expenses for children's return to home.

Employment

176. Public employment security offices and employment centres for disabled persons provide employment guidance, vocational training and employment agency services for all disabled persons, including children. These are conducted as employment rehabilitation measures according to the laws for the promotion of disabled people's employment, the New Long-Term Programme for Government Measures for Disabled Persons, basic guidelines for measures for handicapped persons and the disabled persons' plan.

Recreation

177. To ensure that disabled persons, including children, have the opportunity to enjoy sports and cultural activities just as non-handicapped people do, the Government is working to promote sports for disabled persons by holding national sports tournaments for physically handicapped persons and the Yu-Ai Pic, which is for mentally handicapped persons. In addition, the Government supports handicapped people's cultural activities and encourages the construction of theatres and concert halls that are "handicap-friendly".

International cooperation for medical treatment for disabled children

178. It is effective and important for Japan, in terms of international cooperation, to use its skill and experience in measures for disabled persons in developing countries through Official Development Assistance (ODA) and aid groups in the private sector. The ODA Charter requires Japan to "pay full consideration to children, disabled persons, the elderly and other individuals in a socially weak position". With regard to cooperation related to disabled persons, the Government extends technical cooperation by such means as inviting rehabilitation experts and instructors from developing countries to

Japan as trainees of the training programmes of the Japan International Cooperation Agency (JICA), and dispatching Japanese experts and Japan Overseas Cooperation Volunteers (JOCV). On the basis of the New Long-Term Programme for Government Measures for Disabled Persons, basic guidelines for measures for handicapped persons and the disabled persons' plan, the Government holds international seminars and conducts training courses for rehabilitation specialists in Asian countries.

179. The Government contributes to the United Nations Voluntary Fund on Disability which aims to deal with requests from developing countries and organizations for disabled persons to achieve the goals of the World Programme of Action Plan concerning Disabled Persons (adopted at the thirty-seventh United Nations General Assembly in 1982), such as the prevention of disabilities, effective rehabilitation, and so on. As of 1994, Japan had contributed $900,000 in total to the Fund (the third largest contributor in the world). It also provides aid to the projects implemented by the Economic and Social Commission for Asia and the Pacific (ESCAP), which amounted to roughly $200,000 in 1994.

180. Furthermore, as NGO activities in developing countries have been vigorous in recent years, the Government is conducting international cooperation by providing subsidies for NGO projects and grant assistance for grass-roots projects to those involved in protecting disabled children, to prevent children from becoming disabled, exchange information on rehabilitation and transfer technologies and expert knowledge.

C. Health and health services (art. 24)

181. In Japan, various maternity and child measures are applied under the Maternal and Child Health Law, including those concerning health guidance, medical examination and medical treatment, as shown below from puberty, pregnancy, delivery to child-rearing. They are based on the idea that motherhood should be respected and protected as the foundation for the sound birth and growth of the child and that the mother's health should be maintained and enhanced to ensure the healthy growth of infants and toddlers. In recent years, however, the social environment surrounding mothers and children in Japan has changed drastically owing to the falling number of children per household and the increasing number of nuclear families. Various problems have been arising as a result, such as intense worries about child-rearing. In response, there are loud calls for the promotion of firm policies to satisfy new demands from people and to establish an environment where mothers can bear and rear children without concern, by improving maternal and child health programmes in municipalities.

Health-care measures

182. Issuance of the Maternal and Child Health Handbook to mothers reporting pregnancy. If a women becomes pregnant, she must immediately report to the municipal authorities to receive a Maternal and Child Health Handbook, which serves as a health record for the mother and baby from pregnancy, through

delivery, to the rearing stage. The Handbook can also serve as a certificate proving completion of required preventive inoculations by the recording of necessary matters therein.

183. Health guidance for pregnant women and infants. Health Centres and municipal offices distribute general information on maternal and child health care and give individual guidance to pregnant women and babies through nurses upon request.

184. Infrastructure of municipal activities. As bases for various maternity and child health-care activities, maternal and child health centres and municipal health-care centres are established in municipalities. As of the end of 1995, the number of centres reached 410 and 1,503 respectively. Municipal governments hold seminars on child-rearing and provide maternal and child health-care counselling services to pregnant women and guardians of infants, giving advice according to individual circumstances.

185. Health examinations for pregnant women and infants. Medical examinations during pregnancy are crucial for the smooth delivery of a healthy baby. Pregnant women can have general medical check-ups twice and, if necessary, a close examination once for free at medical institutions. All babies, who can also have general medical check-ups twice and, if required, a close examination twice for free at medical institutions, are subject to mass-screening examinations on phenylketonuria, inborn defects of metabolism and cretinism. In addition, medical examination services for 18-month-olds and 3-year-olds, as well as health examinations for pregnant women and infants, are available whenever necessary.

186. Vaccinations. Under the Preventive Vaccination Law, infants are inoculated against diphtheria and whooping cough.

Health examinations at school

187. Pursuant to the School Health Law, schools give health examinations upon entering school in addition to regular health check-ups and medical advice during the school term.

Nutrition improvement

188. Under the Community Health Law, the Government provides counselling services, etc. concerning infants and nutrition improvement to improve and enhance public health. Under the Nutrition Improvement Law, moreover, the Government conducts the National Nutrition Survey on health conditions and nutrition intake of the people, and dieticians are posted at health centres to give necessary advice to residents, including children, and to institutions providing meals to large numbers of people, such as child welfare facilities.

International cooperation

189. Based on the ODA Charter, the Government implements international technical cooperation programmes in the field of health and medical care

through the Japan International Cooperation Agency (JICA). It undertakes various schemes of technical cooperation, for instance, with the support of medical workers, including doctors working for Government-run hospitals, especially in the field of maternal and child health care. It also issues grants directed to the health/medical care sector for improving medical institutions, waterworks, sewerage facilities and waste disposal plants, etc. In addition, the Government invites and conducts training programmes for specialists in maternal and child health care from developing countries.

190. In 1995 Japan contributed approximately $49 million and voluntarily donated roughly $23 million to WHO. Accordingly, the Government conducts international cooperation activities to enhance the health of children through information exchange, technological cooperation and special training programmes, etc.

191. The Government attaches considerable importance to cooperation on vaccination under WHO's two principal ideas, that is, the Polio Eradication Plan, which aims to eradicate polio from the earth by the year 2000, and the Children's Vaccine Initiative (CVI), which aims at the improvement of existing vaccines, the development of new vaccines and the reinforcement of the vaccine supply and demand system. Japan has been actively cooperating in this field by providing polio vaccine on National Immunization Day, vaccine for regular inoculation of children under the Expanded Programme on Immunization (e.g. polio/tetanus/BCG and DPT vaccine) and cold chains (a series of items of equipment for storing and moving vaccines at low temperature), especially for Asian countries. In implementing this cooperation, the Government is actively making efforts to coordinate bilateral cooperation with multilateral cooperation under WHO and UNICEF.

D. Social security and child-care services and facilities (art. 26 and art. 18, para. 3)

Social security

192. To ensure social security as provided for in paragraph 1 of article 26 of the Convention, the Government provides both medical and income supports. Medical support is ensured by various medical insurance systems in addition to government subsidy programmes for health care of infants and children. Income support, on the other hand, includes child allowance, child-rearing allowance, special child-rearing allowance, handicapped child welfare benefits, survivor's pension and daily life security.

193. With regard to medical support, all the persons living in Japan, including children, are required to join the national health insurance scheme. Depending on the person's or his/her guardian's solvency, municipal governments bear part or all of the expenses involved in supplying: medication to enable handicapped children to make a living; artificial body parts furnished for children holding handicapped status certification; medical fostering for assisting the education and recuperation of children suffering from tuberculosis.

194. As to social welfare, various benefits such as the Child Allowance, the Child-Rearing Allowance and the Special Child-Rearing Allowance are provided according to the income level of the qualified recipient caring for the child in question, depending on the existence and the number of dependent relatives, which is established by government ordinances.

195. Child Allowance Scheme. Introduced in 1972, the Child Allowance Scheme is implemented with the aim not only to stabilize family life by relieving the household's economic burden arising from child-rearing, but also to support the healthy growth and enhance the constitution of children, the rising generation. The Government has revised the Child-Rearing Allowance Law to support both employment and child-rearing in view of the changing environment surrounding children and families such as the declining birth rate in recent years. Following the revision, it renamed welfare facilities as "Child-Rearing Enterprises" in the interests of promoting various child-rearing services; the stability and continuity of the Enterprises have been ensured by the collection of contributions, mainly from companies, for establishing Enterprises afresh.

Table 18. Outline of child allowance

Subject	:	Any child
Term of allowance	:	Expires on child's third birthday
Amount	:	First and second child: ¥5,000/month Third and more additional children: ¥10,000/month
Income requirement	:	Below ¥2,396,000 (per 4-person-household) (enforced on and after June 1996)
Special allowance	:	If the applicant or public officer is unqualified due to the income limit, he/she receives a benefit equivalent to the amount of child allowance paid fully by his/her company or public office, provided that his/her income is below ¥4,178,000 (per 4-person-household) (enforced on and after June 1995)
Number of qualified children	:	2,485,032 (as of the end of February 1996)

196. Child-Rearing Allowance Scheme. To enhance the economic stability and independence of families which are fatherless due to parent's divorce, etc., the Government provides Child-Rearing Allowances for qualified children to facilitate their welfare.

Table 19. Outline of Child-Rearing Allowance

Subject	: A mother of a fatherless household or a guardian who cares for and rears a child until the first end of March after the child's eighteenth birthday (up to the child's twentieth birthday in the case of handicapped children)
Amount	: One child * Full allowance = ¥ 41,390 * Partial allowance = ¥ 27,690 (enforced on and after April 1995)
	: Two children = additional ¥ 5,000
	: Three children = additional ¥ 3,000 per child
Number of qualified children	: Approximately 880,000 (as of the end of March 1995)

197. Special Child-Rearing Allowance. Special Child-Rearing Allowances are issued to parents caring for or rearing at home children under 20 years of age with disabilities of medium degree or more.

Table 20. Outline of Special Child-Rearing Allowance

Amount (per month)	: The first grade = ¥ 50,350
	: The second grade = ¥ 33,530 (enforced on and after April 1995)
Upper limit of income	: For the recipient = ¥ 7,410,000 (four-member household) : For the guardian = ¥ 9,041,000 (six-member household) (enforced on and after August 1995)
Number of qualified children	: 125,947 (as of March 1995)

198. The Public Assistance Law, which applies to children as well, stipulates that: the level of aid shall satisfy but not exceed the requirements for enjoying the minimum standard of living in consideration of the applicant's sex, age, family composition, living area, and other essential conditions according to the type of aid; and effective, pertinent support shall be

provided effectively and appropriately in view of the applicant's age, sex, health condition and the discrepancies between the individual's or household's current status and the required standard of aid in practice.

Provision of services for child-rearing

199. The following services are available for child-rearing.

200. Day-care centres. Municipal governments are responsible for admitting children to day-care centres in cases where it is recognized that neither parents (guardians) nor other family members can take care of the child because the parents are normally at work during the day. As of April 1994, the number of day-care centres numbered 22,532, and the number of children attending the centres amounted to 1,593,161.

Table 21. Trends in the number of day-care centres

Year	Number of day-care centres			Total capacity (persons)	Current registrants (persons)
	Total	Public	Private		
1989	22 742	13 419	9 323	1 992 525	1 662 465
1990	22 703	13 380	9 323	1 978 989	1 637 073
1991	22 669	13 347	9 322	1 968 666	1 622 326
1992	22 637	13 322	9 315	1 958 796	1 618 657
1993	22 583	13 277	9 306	1 945 915	1 604 770
1994	22 532	13 230	9 302	1 935 054	1 593 161

Source: Survey by the Ministry of Health and Welfare.

201. The operating costs of day-care centres are calculated, including the labour, service and management, and the rearing cost per child according to the child's age category is determined to ensure that child-rearing services are provided adequately. In terms of facilities, it is believed that most day-care centres throughout the nation satisfy the required standards, owing to active efforts made each year to consolidate facilities to meet child-rearing needs. It is necessary, none the less, to construct new facilities, especially focusing on suburban areas where the rise in population is dramatic. Moreover, it is necessary to encourage rebuilding of old facilities to deal with disasters and new needs.

202. Subsidies for companies. The Government provides ordinary companies contributing financially to child allowances with a subsidy to establish day-care facilities for their employees' children.

203. Additionally, in response to women's diversified needs relating to work and child-rearing, the Government actively promotes special nursery measures, such as infant nursery care and extended time day-care services.

204. Nursery care for newborns. To ensure the security of newborn babies (less than one year old) and their sound development both in mind and body, nursery care must be provided in consideration of such conditions as facilities and staff. On these grounds, the Government posts extra nurses to nurseries meeting facility and operation standards. Nurseries with such extra nurses numbered 7,645 in 1994.

205. Extended-Hour Day-Care Service programme. The Government launched Extended-Hour Day-Care Service in 1994, integrating the conventional extended-hour nursery care with the long-hour nursery care. Subsidies are provided to nurseries offering service Type A (two-hour extension), Type B (four-hour extension) and Type C (six-hour extension); 1,649 nurseries were subsidized in 1994.

206. Night-time nursery care. The Government subsidizes night-time nurseries offering services roughly between 1.00 p.m. and 10.00 p.m. The number of night-time nurseries subsidized totalled 37 in 1994.

207. Day-care for children with disabilities. The Government posts extra nurses to day-care centres caring for and admitting a large number of children with disabilities on a daily basis (children subject to Special Child-Rearing Allowances). Extra nurses were posted to 4,381 day-care centres for children with disabilities in 1994.

208. Temporary nursery care programme. The Government subsidizes nurseries providing flexible nursery care services to deal with diversified working patterns of women who need services for a few days per week (due to part-time work, etc.), in addition to those offering emergency nursery care services to respond to urgent needs arising from unexpected illness or sudden injury of guardians. A total of 387 nurseries were involved in the programme in 1994.

209. Under the After-School Child-Care Programme the Government promotes the healthy growth of children in lower grades of elementary school whose parents (guardians) are not present during the daytime (after the classes are over) by caring for, advising, and offering recreation programmes to such children after school.

210. In response to the falling number of children per household, the ever-increasing participation of women in public affairs and other changes in the environment surrounding children, the Ministers of Education, Health and Welfare and Labour and Construction reached an agreement to adopt a programme entitled "The Basic Direction of Support for Child-Rearing" (the Angel Plan) on 16 December 1994, for the purpose of promoting comprehensive and systematic policies to support child-rearing. As part of the Angel Plan, furthermore, the Minister of Finance, the Minister of Health and Welfare and the Minister of Home Affairs agreed to implement a plan entitled the "Five-Year Programme

on Emergency Measures for Nursery Care" on 18 December 1994, with the aim of implementing policies for baby care (0-2 years old) and extended-hour nursery care. (For details, refer to para. 19).

211. The Government protects children deprived of a family environment and those suffering from abuse through sending them to child welfare facilities, etc. (For details, refer to V F)

212. The Government promotes the health of infants and toddlers through implementing various maternal and child health programmes, and encourages the provision of various welfare services for children with disabilities. (For details, refer to IV A, B and C).

Child commissioners

213. A child commissioner is a private volunteer posted in municipal offices, as provided for in article 12 of the Child Welfare Law, who is in charge of keeping informed about the living conditions and the environment of children and pregnant women in the district. They provide assistance and guidance in relation to protective, health care and other welfare services, and cooperate in activities undertaken by Child Guidance Centres, Welfare Offices and other administrative offices (e.g. welfare activities for children, maternal and child care, and mentally handicapped persons). In municipal offices across the country, there are approximately 210,000 individuals appointed as district child welfare commissioners by the Ministry of Health and Welfare. Also, since January 1994, about 14,000 individuals have been delegated as chief child commissioners, specializing in counselling and assistance activities for the welfare of local children and pregnant women.

Table 22. Counselling and guidance activities by child commissioners

Activities of child commissioners (1994)				
	Child welfare	Maternal/child welfare	Maternal/child health care	Total
Number of cases	916 441	526 931	198 822	1 642 194

Source: Survey by the Ministry of Health and Welfare.

E. Standard of living (art. 27)

214. Article 25 of the Constitution of Japan guarantees the right of people, including children, to enjoy a minimum standard of living. The Government takes the following steps to support parents and other guardians responsible for children to ensure the children's rights to enjoy a reasonable standard of living:

(a) Provision of Child Allowance (reference: para. 195);

(b) Provision of Child-Rearing Allowance (reference: para. 196);

(c) Provision of Special Child-Rearing Allowance and Welfare Allowance for Children with Disabilities (reference: para. 197);

(d) Assistance regarding the nutrition intake of newborn babies and infants under the Maternal and Child Health Law (for the purpose of maintaining and enhancing the health and managing the diet of infants and toddlers, group activities are conducted and nutritious foods are distributed);

(e) Livelihood Protection and Housing and under the Public Assistance Law (a general law for individuals who are unable to maintain the minimum standard of living due to poverty, under which poverty-stricken individuals are supplied with articles essential to everyday life (e.g. clothing, food), accommodation and other items necessary for the maintenance/repair of houses on a cash basis or, if necessary, by an allowance in kind);

(f) Housing finance by the Housing Loan Corporation, which issues long-term, fixed, low-interest housing loans;

(g) Construction of public-operated housing in cooperation with local authorities, sufficient to enjoy a wholesome and cultured life and rented at a low rate to low-income earners who need houses.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational guidance (art. 28)

Table 23. Number of students by school type (1 May 1995)

Category	Number of schools	Number of enrolled students
Total	58 369	22 662 246
Elementary schools	24 548	8 370 246
Lower secondary schools	11 274	4 570 390
Upper secondary schools	5 501	4 724 945
Universities	565	2 546 649
Junior colleges	596	498 516
Colleges of technology	62	56 234
Schools for children with visual/hearing impairments or other disabilities	967	86 834
Kindergartens	14 856	1 808 432
Special training schools	3 476	813 347
Miscellaneous schools	2 821	321 105

Source: Survey by the Ministry of Education.

Notes:

1. In the table, the total does not include the number of schools and enrolled students in special training schools and miscellaneous schools.

2. In the table, the number of students enrolled in upper secondary schools include those in advanced courses and short-term courses; the number of enrolled students in universities and junior colleges include those in graduate schools, advanced courses and short-term courses as well as auditors and special non-degree students; the number of enrolled students in colleges of technology include those in advanced courses.

215. Kindergartens (pre-school education). Kindergartens are schools which aim to provide care to and promote the mental and physical development of children (from 3 to 5 years of age) by providing an appropriate environment. Education in kindergartens is not compulsory, since their objective is to nurse children who are at the pre-school stage. As of 1994, however, approximately 60 per cent of 5-year-old children entered kindergartens. About 90 per cent of them went to kindergartens or nursery schools. Considering the importance of education during infancy, it is desirable to provide opportunities for kindergarten education to all children from 3 to 5 years of age. The Government is, therefore, endeavouring to disseminate kindergarten education, consolidating both public and private facilities and implementing a programme which provides allowances to encourage kindergarten education to guardians of pre-school-age children to mitigate their economic burden.

216. Compulsory education (elementary school education and lower secondary education). In Japan, children from 6 to 15 years of age must attend elementary school and lower secondary school. Meanwhile, non-Japanese children are not required to attend school under the compulsory education system. If they wish, however, they are given the same educational opportunities. Elementary schools are intended to provide six-year general elementary education for boys and girls from 6 to 12 years old, according to their mental and physical development. Lower secondary schools are intended to provide three-year secondary education for boys and girls from 12 to 15 years old, according to their mental and physical development based on the education achieved in elementary schools.

217. Compulsory education offered by national and public schools is free of charge and the textbooks used for compulsory education are supplied gratis by the Government, not only to pupils and students of national and public schools, but also to those in private schools. Moreover, cities, towns and villages must provide the necessary aid to guardians who are recognized to have financial difficulty having their school-age children attend schools (arts. 25 and 40 of the School Education Law), so that compulsory education can be smoothly achieved. The Government also helps promote smooth

implementation of compulsory education through the Law Concerning the National Treasury's Share for the Encouragement of School Attendance of Pupils Having Financial Difficulties, which provides that the Government should subsidize municipalities encouraging education by offering school supplies to the children and students who have difficulties attending school for financial reasons. These measures for free compulsory education apply to non-Japanese children as well.

218. In Japan, to maintain a certain standard of elementary and secondary education throughout the nation and to ensure equal opportunity of education in practice as guaranteed by the Constitution, the Enforcement Regulation of the School Education Law (the Ministry of Education Ordinance) has established standards for school curricula, stipulating the course of study and the standard hours allotted to them each year. In addition, the "Courses of Study", the government guidelines for teaching (Notification by the Ministry of Education), specify standards for the content of each subject.

219. Upper secondary education. An upper secondary school is an institution for upper secondary education, which provides higher general and specialized education. The School Education Law provides that those who graduated from a lower secondary school or its equivalent, or those who are considered by the competent authorities to have equal to or higher scholastic ability than the above-mentioned students, are eligible to enter an upper secondary school, regardless of sex, race, nationality, or any other factor. In addition, Japan provides financial assistance for those who are unable to enter school for economic reasons, through scholarship funds, etc. whenever necessary. Japan is taking the necessary measures to ensure equal opportunity for the upper secondary education and consequently, about 97 per cent of the eligible students entered upper secondary school in 1995.

220. Higher education. The School Education Law provides that those who graduated from an upper secondary school or those who have completed 12 years of school education in regular courses, or those recognized to be equivalent to or higher than those mentioned above in regard to academic achievements in accordance with the conditions stipulated by the competent authorities, are eligible to enter a higher education institution, namely, university or college, regardless of sex, race, nationality, or any other factor. Furthermore, the University of the Air was established in 1983 with the objective of providing the people with greater opportunities to receive high-level education, by promoting a new type of university education through broadcasting, etc. The University of the Air offers higher education by effectively using diversified media, such as television and radio. Moreover, under the Japan Scholarship Foundation Law, the Japan Scholarship Foundation offers scholarships to excellent students who have financial difficulties. In addition to the Foundation, other organizations such as local public organizations and public corporations also extend scholarships to encourage education. Furthermore, both public and private universities reduce or waive tuition fees for students according to their financial situations.

221. Use of information on education and occupation. At school, guidance/counselling is given to students to help them have a clear objective

for their present and future life and acquire the ability and will to determine their course of life with their own will and responsibility. In giving guidance/counselling, it is important to grasp accurately the ability and aptitude of students through all educational activities, and then collect and use the information to carry out enlightening activities methodically and systematically. In this way, various training activities have been carried out and guidance materials have been produced.

222. In cooperation with schools, the Public Employment Security Office offers systematic vocational counselling, keeping close relations with guidance/counselling given at schools, so that new graduates can select occupations according to their aptitude and ability. As part of vocational counselling, such tests as the General Vocational Aptitude Test and the Occupation Readiness Test (except for junior high school students) are conducted to determine aptitude and promote self-understanding. In addition, various kinds of vocational information, lectures on occupation and vocational counselling are available.

223. Encouragement of regular attendance. In Japan, to make sure every child receives compulsory education, the municipal board of education registers all school-age children in the student list and designates to guardians a school in which a child should enrol upon his/her entrance to school. The school's principal is required to keep precise records of the attendance rate of enrolled students and given them appropriate guidance. Moreover, the municipal board of education should remind guardians to have children attend school if they fail to do so without justifiable reasons. In reality, however, there is a growing number of students suffering from so-called school-phobia in recent years. These students do not or cannot attend school, mainly due to psychological, emotional, physical, or social factors and backgrounds (except for diseases or financial reasons). To solve this problem, the Government is advising the boards of education to deepen understanding of each child and give guidance, while respecting their individuality, at school. Various measures have also been taken to improve the aptitude and ability of teachers to establish a system to offer educational counselling, and to promote cooperation among families, schools and local communities.

224. The Government is advising the board of education to work comprehensively and actively on withdrawal from upper secondary schools, through the following measures:

(a) Promotion of diversified, flexible and individual-oriented education in upper secondary schools through selection-oriented curricula;

(b) Careful guidance suitable for each individual, promoting "lively classes" and "easy-to-understand classes";

(c) Making the upper secondary school education system more flexible by accepting the transfer of students (to new schools, courses and classes) to allow a student to change his/her course.

Various measures have also been taken to make the most of each student, promote individuality-oriented education, raise the standard of teachers and set up a system for educational counselling.

Measures against the problem of bullying

225. Recently, bullying has become a serious problem in Japan. The gravity of the situation was demonstrated by a number of suicides presumably caused by bullying. This is a serious concern which may affect children's rights. The Government, therefore, guides the boards of education, etc. to work thoroughly on this issue at schools, strongly recognizing that "bullying the weaker shall never be allowed". The Government also advances measures to respect each child, emphasize individuality, improve the aptitude and ability of teachers, post experts from outside of schools, establish a system to offer educational counselling, and promote cooperation between families and local communities. At the same time, the Government tries to instil respect for human rights, including the right to life, in children through all educational activities.

226. Regarding this problem, other administrative organs in addition to the Ministry of Education conduct in concert various measures such as counselling services and public relations activities. Civil liberties organs of the Ministry of Justice, for instance, have set their main target for public relations activities in 1996 as "Let's protect the rights of children - Bullying: don't do it, don't let it happen, don't overlook it", and are launching campaigns with this target throughout the nation with the support of schools, families and local communities. The police, furthermore, make efforts to identify bullying cases promptly and prevent their recurrence, providing appropriate measures for the bully through thorough investigation of cases and conducting rehabilitation activities for victims in consideration of their character, surrounding environment and the degree of psychological damage.

227. School rules. In Japan, school rules may be established for students, so long as they are reasonable and necessary for achieving educational goal. The Government has sent notices to educational institutions to continue to improve school rules in consideration of the actual conditions of students, guardians' viewpoints, and the actual state of local communities, since school rules are related to daily education and guidance. At Japanese schools, disciplinary actions may be taken when they are considered necessary for educational purposes. In taking disciplinary actions, the Government instructs educational institutions to consider carefully whether such actions are really necessary from the educational viewpoint, and to pay full attention to the circumstances surrounding each student by listening to his/her explanation and opinions. It is also important that such disciplinary actions have essential educational effects, instead of just serving as sanctions.

228. In Japan, corporal punishment is prohibited under article 11 of the School Education Law. The Government has been giving instructions to educational institutions to realize the principle of the provision "no corporal punishment" in every possible opportunity. Civil liberties organs of the Ministry of Justice, if they receive reports or information of corporal

punishment, investigate the cases suspected to have infringed upon human rights, hearing explanations from the people concerned. After investigation, they alert (with "instruction" or "warning") the teacher and the principal of the school to respect the fundamental rights of children and request them to take measures to prevent repeating such acts. In 1994 and 1995, among cases involving infringement upon human rights (16,035 cases in 1994 and 16,296 cases in 1995), cases of corporal punishment numbered 89 and 111 respectively.

229. International cooperation. Japan extends cooperation to the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO): it contributes to UNESCO Funds-in-Trust for the Promotion of Literacy ($700,000 in fiscal year 1995) for the Asia-Pacific Programme of Education for All (APPEAL) and also holds training seminars under the Asia and Pacific Programme of Educational Innovation for Development (APEID). In addition, Japan subsidizes the Asia/Pacific Cultural Centre for UNESCO to support the programmes of development of literacy materials, etc. Under these programmes and other related activities, Japan dispatches Japanese experts to developing countries and invites specialists from those countries. Furthermore, it provides assistance in various ways to non-governmental international cooperation programmes for the promotion of education in developing countries such as those by the National Federation of UNESCO Associations in Japan. Japan also grants funds to developing nations to construct elementary and junior high schools and social educational facilities, to spread broadcast education, and to train teachers. It also donated approximately $1 million to the educational projects implemented by UNICEF for girl children in Asian countries.

B. Aims of education (art. 29)

230. Article 1 of the Fundamental Law of Education provides that "education shall aim at the full development of personality, striving for the rearing of people sound in mind and body who shall love truth and justice, esteem individual value, respect labour and have a deep sense of responsibility, and be imbued with an independent spirit, as builders of the peaceful state and society". This goal of education should be "realized on all occasions and in all places" as a challenge to the whole educational process starting from childhood. This goal has become a common philosophy for education and should be regarded highly not only in school education but also in home and social education.

Education of non-Japanese children

231. In Japan, non-Japanese children who learn at "school" as defined by the School Education Law are basically educated in the same way as Japanese children. In actually receiving non-Japanese students in a school, each school is making efforts and contriving means to help them adapt to the school, in consideration of their original language and customs. Specific lessons are provided individually to non-Japanese students outside their classes in accordance with their aptitude and ability, and "team-teaching" has been carried out with the cooperation of more than one teacher at their

school. The Government is also: preparing and distributing textbooks to study the Japanese language and guidance materials for non-Japanese children; training teachers in charge of them; sending those with knowledge of their native languages; and posting extra teachers to schools which admit them. The Government, moreover, designates some schools as "pilot schools" to promote the study of methods of receiving non-Japanese children. In extracurricular activities, no restrictions have been imposed on offering non-Japanese students the opportunities to learn their own language and culture. Such opportunities of learning are actually given in several local governments.

C. Leisure, recreation and cultural activities (art. 31)

232. Establishment of cultural and educational facilities. In Japan, under the Child Welfare Law child welfare facilities have been established to give children safe play areas, to promote their health and to develop their emotional maturity. In the field of social education, the Government encourages various events to provide children with ample experience and activities, subsidizes social educational facilities, such as public halls, and provides places for learning activities under the law concerning the establishment of the system for promoting measures for life-long education. This way, the Government is working on this issue by taking a comprehensive approach. The major recreation facilities are described below.

233. National Olympic Memorial Youth Centre. This centre was established as a youth education facility under the direct supervision of the Ministry of Education to raise healthy young people and promote youth education. This purpose has been achieved through: the training of young people, youth education leaders and other persons related to youth education; collaborative and cooperative activities with organizations and groups involved in youth education; and professional research studies on youth education. In 1994, a total of 680,000 people used this centre.

234. National Youth House. This is a social educational facility aimed at bringing up healthy young people through group lodging. As of October 1993, 732 houses had been established throughout the country, and in 1992, a total of 16,130,000 people used these houses.

235. Child Cultural Centre. This centre is a social educational facility to promote voluntary activities based on young people's interests and concerns by spreading scientific knowledge, cultivating aesthetic aptitude through cultural activities and providing counselling for boys and girls. This centre is equipped with such facilities as a library, music room and planetarium, and serves as a centre for young people's daily activities, including various events and exhibitions held by groups and organizations. In 1992, a total of 2,820,000 boys and girls used this centre.

236. National Youth Camping Site (South-Zao). This camping site was planned in commemoration of the International Year of the Child (1979). It opened with the objective of cultivating an independent spirit, endurance, tolerance

and sound minds and strong bodies by allowing young people to experience the harshness and beauty of nature through camping. Up to 3,000 people can camp on this 159-hectare site.

237. Public halls. Public halls play an important role as a major social educational facility in everyday life. As of October 1993, there were a total of 17,562 halls in Japan.

238. Museums. Museums play an important role as a social educational facility. As of October 1993, a total of 861 museums were in Japan.

239. Libraries. Japan had a total of 2,138 libraries as of October 1993.

240. Sports facilities. There are approximately 300,000 sports facilities throughout Japan, half of which are school physical educational facilities. Public sports facilities account for about 20 per cent of the total and private sports facilities, including those owned by private companies, account for about 25 per cent.

241. Children's halls/centres. This is a comprehensive facility for promoting the sound growth of children. It aims at providing children with a safe play area, enhancing their health, cultivating feeling, and fostering and promoting activities by local organizations such as the Mothers' Club and Children's Association. A total of 4,102 children's halls/centres existed in Japan as of January 1995.

242. Children's recreational ground. A recreation ground for children is a facility which has the same purpose as a children's hall/centre. As of January 1995, there were 4,189 recreation grounds for children.

243. The Government implemented in fiscal 1994 a new Programme to Build Towns Friendly to Children. To secure playing fields for children, the Government is formulating a plan to expand children's halls/centres, children's recreation grounds and parks, and is also promoting guidance in play and the opening of parking lots, sections of road, company grounds and idle land as playgrounds for children.

Encouragement of culture, art and recreational activities

244. The Government also carries out the following services to give children opportunities to enjoy culture, art and recreational activities.

245. Affording opportunities to appreciate art. To help increase the opportunities for children to appreciate and participate in art, the Government sends excellent performing artists throughout Japan, including a performance tour of the Children's Art Theater, the Lower Secondary School Art Appreciation Programme and the Youth Art Theatre. The Government also holds mobile art exhibitions in various districts to exhibit Japanese and foreign art masterpieces as well as superior modern art works possessed by national museums. As for traditional culture, to offer opportunities to enjoy masterpieces, special exhibitions have been held showing cultural assets to

children with easy-to-understand explanations at national museums in Tokyo, Kyoto and Nara. In addition, national theatres give children opportunities to appreciate traditional performing arts such as Kabuki, Noh plays and Bunraku, accompanied by easy-to-understand explanations, at low rates. Noh plays and Bunraku also gives special performances during the summer vacation, selecting mainly easy-to-understand programmes children would love. Furthermore, local public organizations, private museums and art museums actively offer children opportunities to enjoy cultural activities through workshops and art appreciation classes. The Art and Culture Promotion Foundation also supports various art and cultural activities conducted by art and cultural groups for children and youth persons.

246. Promotion of cultural activities. Comprehensive School Festivals are held to present the art and cultural activities of upper secondary school students throughout Japan, and the National Upper Secondary School General Cultural Festival is held with the objective of improving creative activities and deepening mutual understanding.

247. Promotion of sports activities. Physical and sports activities are important for children, since these activities are useful for developing their physical strength, cultivating the basis for them to enjoy sports for their whole lives, and forming their character in a broad sense. The Government is, therefore, promoting physical and sports activities at schools, including physical education classes and activities in athletic clubs after school. The Nationwide Athletic Meet is held for lower secondary school and upper secondary school students. The Government subsidizes prefectural expenses involved in holding the Athletic Meet and dispatching participants. It is also encouraging sports activities in local communities by giving assistance to programmes promoting the sports activities of youth and children, and it has held the Nationwide Sports Recreation Festival annually since 1988 as a national festival in which anyone may participate and enjoy him/herself. Furthermore, it is providing assistance for the programmes to encourage sports exchanges with youth in foreign countries, which contributes to the promotion of international exchanges through sports. The Sports Promotion Fund supports the holding of sports tournaments, etc. targeting boys and girls.

248. The police are promoting practice in Japanese traditional martial arts, judo and kendo, as sports activities to enhance the sound growth of boys and girls, using training halls (dojo) at police stations and other appropriate facilities. Some 100,000 boys and girls participate in judo and kendo practice from all over Japan. To encourage friendship among boys and girls who practice judo and kendo and to demonstrate the results of daily training, the National Police Station Juvenile Judo and Kendo General Meeting has been held in August each year since 1988. (The ninth General Meeting was held in August 1996.)

VIII. SPECIAL PROTECTION MEASURES

A. Refugee children (art. 22)

249. Japan acceded to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as well as the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967. As a result, Japan revised the Immigration Control Order to establish the system of refugee recognition. Japan has enforced the new system since January 1982, when the Refugee Convention and Protocol entered into force for Japan. Japan is making efforts to make contact and cooperate with the United Nations High Commissioner for Refugees (UNHCR). For example, when Japan deals with applications for recognition of refugee status, it informs UNHCR of all applications and the decisions made. As of the end of January 1996, 6 children were applying for recognition of refugee status and 76 children had been recognized as refugees.

250. Children applying for recognition of refugee status are given various kinds of protection and humanitarian assistance to enjoy the rights set forth in the Convention on the Rights of the Child and the International Covenants on Human Rights. For example, the Government, through the Refugee Resettlement Assistance Headquarters of the Foundation for the Welfare and Education of the Asian People, supplies funds to people, including children, who are applying for recognition of refugee status in a difficult living environment. In addition, the Child Welfare Law is applicable to children applying for recognition of refugee status according to their living conditions.

251. Children recognized as refugees are also given various kinds of protection and humanitarian assistance as to occupation, education, social security, housing, etc. to enjoy the rights set forth in the Convention on the Rights of the Child, the Refugee Convention and Refugee Protocol. For example, the laws, such as the Child Welfare Law and the Child Allowance Law, are applicable to such children.

252. To protect and support refugee children, Japan makes the second largest financial contributions of all States to UNHCR, which conducts protection and relief activities for refugees, including legal support, for the durable solution of refugee issues (Japan contributed about $120,715,000 in 1995). Japan also supports these children through contributions to other international organizations such as the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the World Food Programme (WFP) and the International Committee of the Red Cross (ICRC), etc.

253. To find the parents of refugees, Japan is providing UNHCR with all the available information necessary for reuniting children with their families, responding to inquiries from the UNHCR office.

B. Children in armed conflicts (art. 38)

254. In consideration of the impact of wars on children, who are the most vulnerable and youngest of all the civilians affected by war, and given the fact that they become easy prey for recruiting into armed forces or factions (if children participate in combat, not only their own lives but also those of others will be in danger because of their imprudent behaviour), special measures are necessary to protect children. From this viewpoint, international humanitarian laws, such as the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, prescribe detailed measures for protecting children. Japan acceded to the Geneva Convention, supporting the objective of the Convention.

255. Japan has the Self-Defence Forces (SDF), which have as their primary mission defence of the country against direct and indirect invasion to maintain the peace, independence and security of Japan. Under the enforcement regulations of the Self-Defence Forces Law, those who are 18 years old or over are recruited, in principle, as Self-Defence Forces Personnel. The only exception is that those 15 and 16 years old are recruited as Self-Defence Forces youth cadets to be trained to become technical specialists, such as ground, maritime and air SDF sergeants. However, in the first three years of the four-year training period, they receive an education based on the regular high school curriculum and also learn basic matters necessary for Self-Defence Forces Personnel. Therefore, they are not deployed on front lines. Even in case of an emergency, Self-Defence Forces youth cadets 17 and under are not expected to engage in hostilities.

C. The administration of juvenile justice (art. 40)

Juvenile justice

256. In Japan, those under 20 years of age are treated as juveniles (shonen) under the Juvenile Law. If a juvenile commits a crime, he/she is treated according to procedures different from those for adults (20 years or older) under the Juvenile Law as mentioned below, and appropriate measures are taken according to his/her age, so that he/she can play a constructive role in future society. In addition, the Japanese Penal Code provides that those under 14 years of age are not punished for their conduct. Those under 14 are, in principle, sent to a home for juvenile training and education, or a protective institution under the Child Welfare Law.

257. Generally speaking, juveniles are highly malleable, while they are immature. With regard to juveniles who commit crimes, therefore, protection and education are more useful for their sound growth than blaming them for a criminal offence. In Japan, when juveniles commit crimes, their cases are sent or reported to a Family Court to ensure their sound upbringing, correcting their character and adjusting their environment. The Family Court plays not only a judicial role (it determines whether misconduct was committed or not), but also the role of a welfare agency (it makes a judgement whether protective measures are necessary in view of the causes of delinquency and other various factors in order to prevent the recurrence of delinquency. In

making the judgement, it looks into the conduct, career, temperament and environment of the juvenile and of his/her guardians or other persons concerned, making use of medical, psychological, pedagogical, sociological and other technical knowledge with the support of Family Court Investigators). To make efficient use of these two functions, an ex officio hearing structure is adopted in juvenile judgement procedures: the Family Court conducts an investigation of a juvenile delinquent and holds a hearing to determine the most appropriate and reasonable measures or provisions for the juvenile, since it is not desirable that public prosecutors confront juveniles as criminals as in a criminal procedure, and an informal hearing structure in which a judge questions them directly and gives them educational instructions with the help of the persons concerned, is more appropriate.

258. As all juvenile cases are to be handled first in the Family Court, the Family Court makes a judgement on whether to take protective measures or not. Consequently, only in cases where there is no possibility for the juvenile to be corrected by protective measures in view of a history of protective measures taken in the past, or where it is reasonable to accuse and elucidate criminal liability in consideration of the influence on society due to the gravity of the crime committed, juveniles may be subjected to criminal procedures in the same way as adults: this applies, however, only if the person in question commits an offence punishable with the death penalty, penal servitude or imprisonment. Juveniles under 16 years old are not subject to criminal procedures, in consideration of their age. Even where criminal procedures have been taken against juveniles, various exceptions are granted to them, including alleviation of the death penalty and life imprisonment, which are not imposed on juveniles under 18 years old, separation from adults in jail, earlier release on parole, etc. in consideration of the distinctive characteristics of juveniles (refer to paras. 277 and 281 for details). In addition, when a fine is imposed on a juvenile, it is prohibited to send him/her to a labour detention house in lieu of fine.

259. As a general rule, when a certain period has elapsed since a person finished the execution of the sentence he/she received or he/she was excused from the execution of such punishment, or when the period of suspension he/she received has elapsed without revocation of probation, the sentence shall lose its effect. However, if a person is sentenced for a crime committed at under age 20, it is regarded that he/she never received any sentence in applying laws relating to personal qualification, from the time he/she finishes serving the term or is exempted from the execution of the sentence, and the same shall apply when he/she receives a probation, as long as it is not revoked. In this way, consideration is given to impose less restriction on personal qualification.

260. Japan has Juvenile Classification Homes for juvenile delinquents, and Juvenile Training Schools and Juvenile Prisons as correctional institutions for juveniles who committed crimes. In these institutions, inmates are treated fairly in line with the objective of the Juvenile Law, which is the sound upbringing of juveniles, in full consideration of the fact that respect for human dignity and value is essential for bringing up healthy juveniles.

Juvenile Classification Homes

261. A Juvenile Classification Home is an institution which accommodates juveniles sent on remand by the Family Court and which classifies the nature of the juvenile, using medical, psychological, pedagogical, sociological and other technical knowledge in order to contribute to the Family Court's investigation, hearings and decisions on proper protective measures for the juvenile.

Juvenile Training Schools

261. A Juvenile Training School is an institution which accommodates those persons who have been committed thereto by the Family Court as a protective measure, and gives correctional treatment. There are four types of Juvenile Training Schools: primary, middle, special and medical, and treatment is divided into a short-term programme (general and special) and a long-term programme. In a Juvenile Training School, with due consideration for their formal age as well as the actual state of their mental and physical development, inmates receive life guidance, school education, vocational guidance and training, medical care, etc. in a disciplined life encouraging their self-awareness, so that they can adapt themselves to social life and play a constructive role in society. Furthermore, inmates are also guided to coordinate personal relations in social life and recognize their role in society, respecting others' human rights and fundamental liberties, through living in a group and being treated in such a way as to promote their awareness of human dignity and value. The superintendent of a Juvenile Training School can issue a certificate proving completion of all courses of correctional education for those who have finished such courses. That certificate has the same effect as a diploma or other certificate of all courses of study conducted at a "school" established under the School Education Law.

Juvenile prisons

262. Juvenile sentenced to imprisonment with or without labour following a criminal trial are sent to a Juvenile Prison to serve the term. Just like the juveniles in a Juvenile Training School, those in a Juvenile Prison are also given life guidance, school education, vocation training, and medical care and other treatment necessary for adapting to social life, in consideration of their age, the actual state of their mental and physical development, personality, etc. and they are treated in such a way as will promote awareness of human dignity and value.

Probation and parole

263. Juveniles put on supervision are (i) those placed on probation by a Family Court, (ii) those who are conditionally released on parole from a Juvenile Training School, (iii) those who are conditionally released on parole from a juvenile prison, and (iv) those placed on probation upon the pronouncement of a suspended sentence. During such probation and parole period, the juveniles are guided to observe the rules and given necessary

assistance by probation officers and volunteer probation officers. Taking account of the character of delinquents, special supervision programmes are provided, in addition to regular supervision. These include the Special Treatment Programme for Traffic Offenders, the Special Short-term Programme for Traffic Offenders and the Special Short-term Programme for Non-Traffic Offenders. Moreover, in setting up the conditions and supervising a juvenile on probation and parole (guiding in life, association with friends and acquaintances and job application, and coordinating family environment, school relations, etc.), probation officials give full consideration to the age, background, mental and physical state, family, friends and other environmental factors of the juvenile in question, and take the most appropriate approach to encourage him/her to become a good member of society and play a constructive role in a community. In line with the purpose of the Juvenile Law (i.e. the sound growth of juveniles), the officials also treat those on probation and parole, considering that promoting aware of human dignity and value is essential for bringing up healthy young people.

Prohibition of retroactive punishment

264. The Constitution of Japan prohibits retroactive punishment, providing that a person committing an act which was lawful at the time it was committed should not be held criminally liable. Of the acts committed by criminal juveniles (juveniles from 14 to 19 years of age who committed a crime) and law-violating juveniles (juveniles under 14 who violated any criminal law or ordinance), only those which constituted a crime and were unlawful at the time of commission are subject to juvenile judgement.

Presumption of innocence

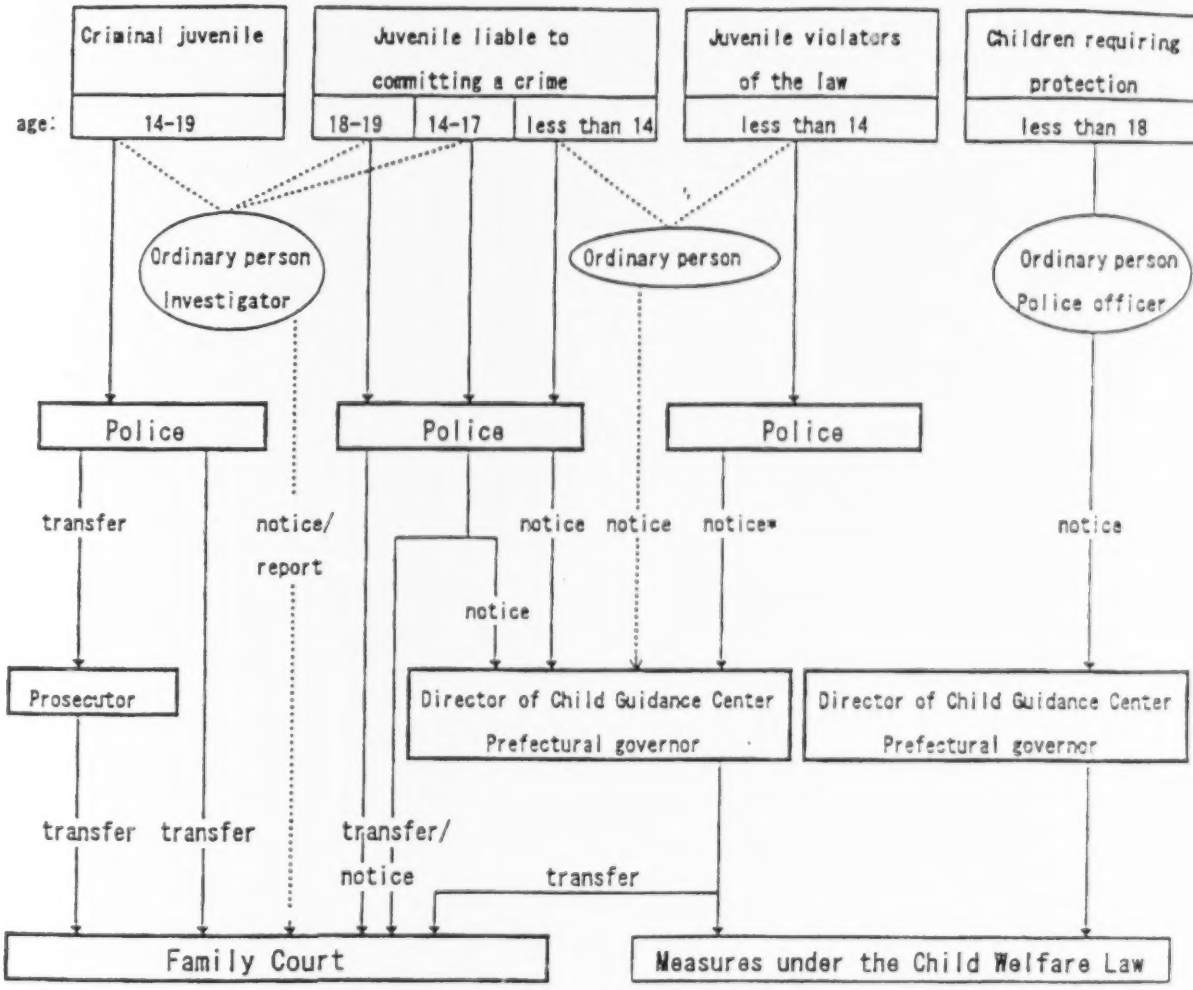
265. Even though "presumption of innocence" is not explicitly stated in existing law, including the Constitution of Japan and the Code of Criminal Procedure, it is regarded as a basic principle of criminal trials. Defendants are convicted only when public prosecutors have the responsibility of proving the charges and the judge considers the charges have been proved beyond a reasonable doubt. The juvenile judgement procedure adopts the ex officio hearing structure (see para. 257). Accordingly, in juvenile judgement, there are no public prosecutors with the responsibility of proving delinquencies, and juveniles do not have the responsibility of proving the non-existence of delinquencies, either. Juveniles are put on probation only when the judge is "confident" of the existence of delinquencies on the basis of evidence which he/she has acquired through his/her investigation. "Confident" is, in general, interpreted as a lack of any reasonable doubt. In this way, the juvenile judgement procedure uses the same principle of "presumption of innocence" adopted in criminal procedure.

Notification of offence and legal aid and other assistance

266. The Code of Criminal Procedure requires public prosecutors to file information which contains the name of the accused and the facts constituting the offence charged, etc. when instituting a public prosecution (art. 256 of the Code of Criminal Procedure). The Code also requires the court to serve

Figure 1. Outline of procedures for juvenile cases

(Part 1) From discovery of juvenile delinquents to Family Court investigation



* Note: Notice is issued only when the juvenile has no guardian or it is inappropriate to make the guardian supervise him.

(Part 2) From investigation/trial at a Family Court to social rehabilitation

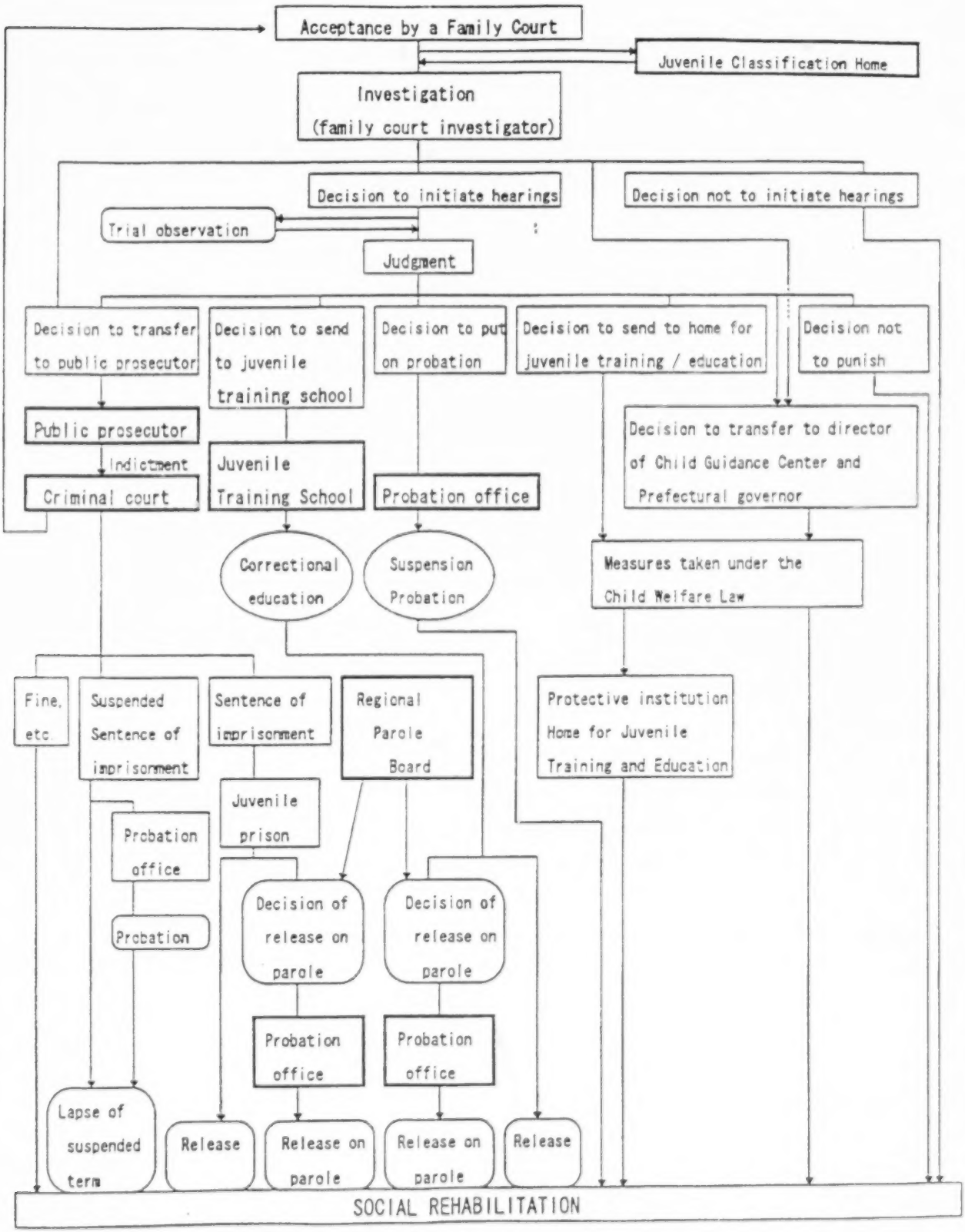
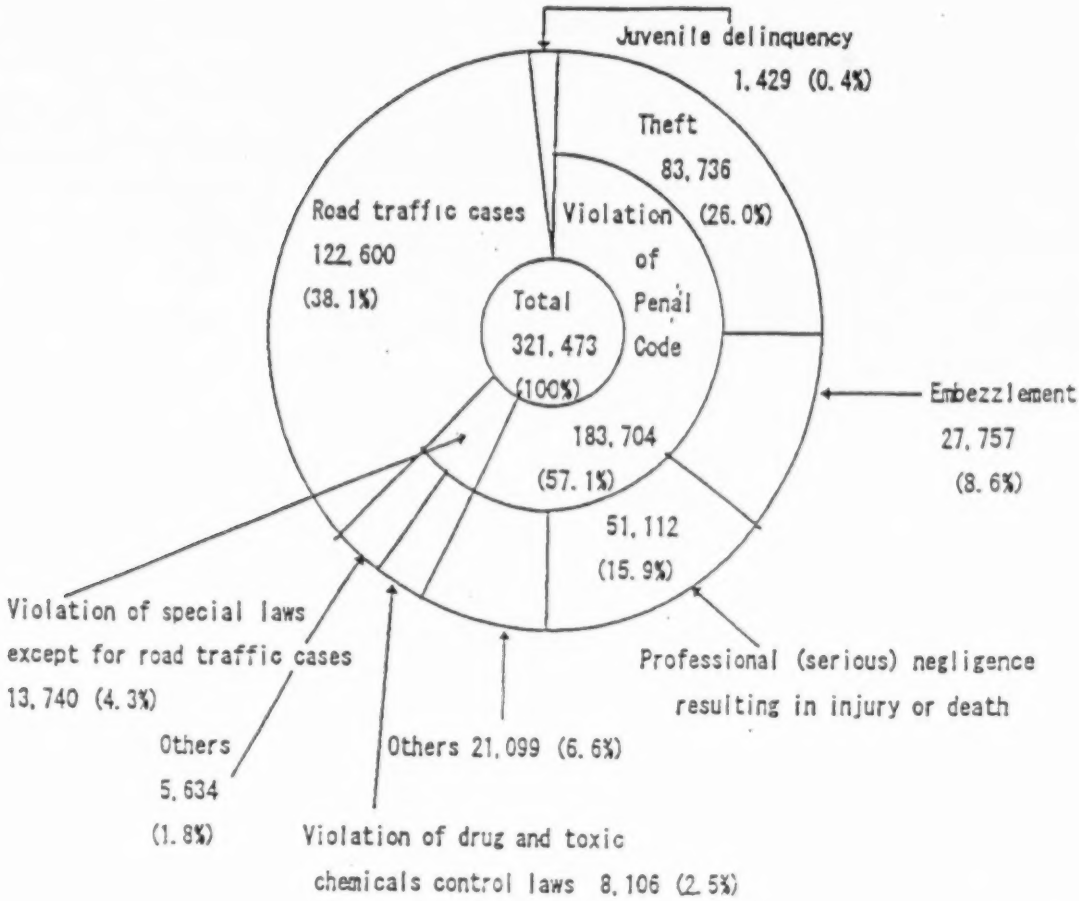
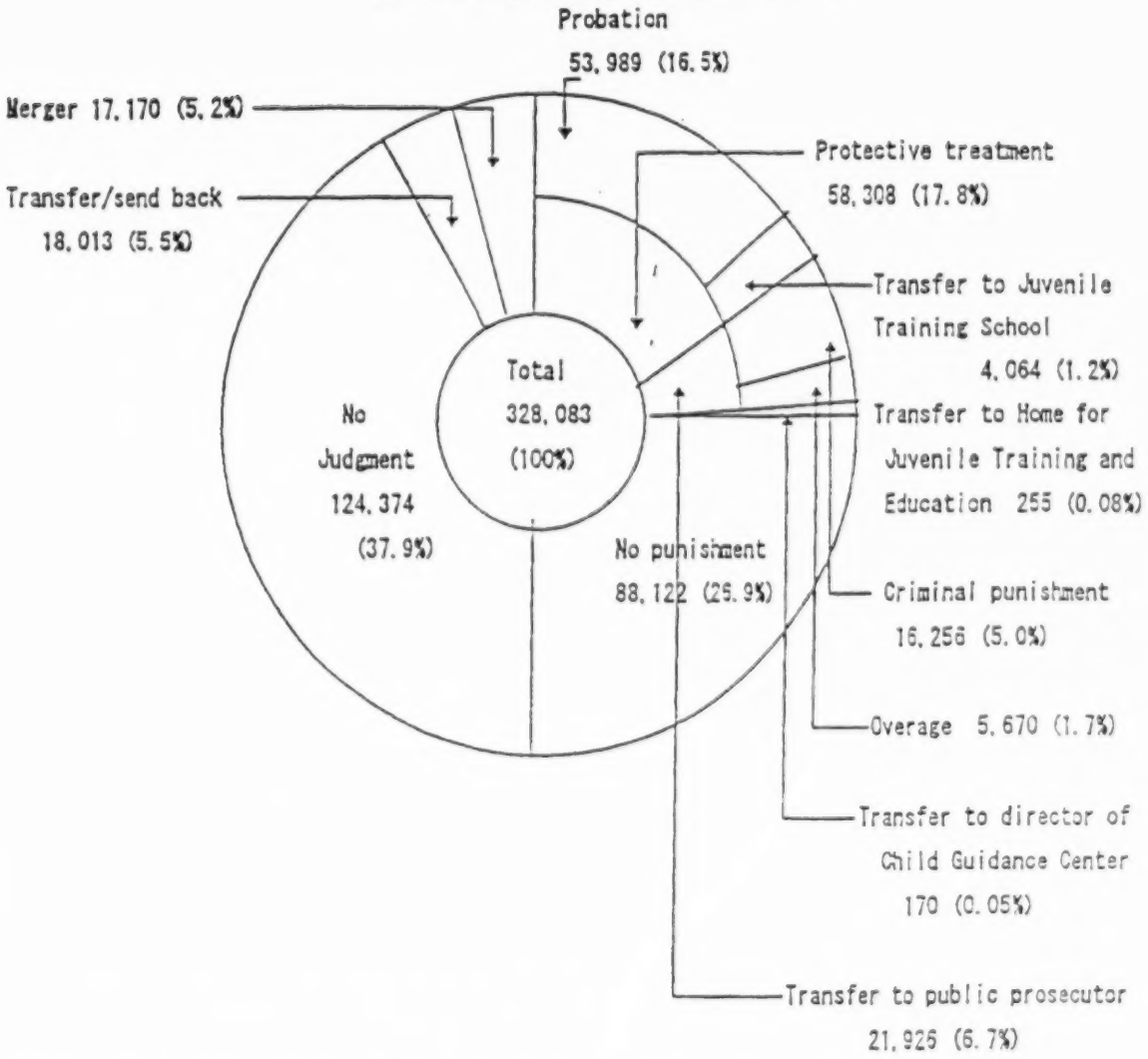


Figure 2. Types of juvenile delinquents protected by family court in 1994



Source: Annual report on judicial statistics by the Supreme Court.

Figure 3. Percentage of juvenile protection cases by final decision of family courts in 1994



Source: Annual report on judicial statistics by the Supreme Court.

the accused with a copy of the information without delay when the public prosecution has been instituted (art. 271, para. 1). Thereby, the accused is informed of the offence for which he/she is being prosecuted. In the juvenile trial procedure, the offence is indicated during the investigation by Family Court Investigators before the trial starts. If the decision is made to initiate a juvenile trial, the judge of a Family Court always announces the offence on the first day of trial in actual practice.

267. As to legal aid and other reasonable assistance, the Code of Criminal Procedure allows the suspects or the accused to appoint defence counsel. The Juvenile Law allows the child and his/her guardian to appoint an attendant, and the juvenile trial is performed in the presence of the guardian.

Fair trial

268. The Constitution of Japan stipulates that "All judges shall be independent in the exercise of their conscience and shall be bound only by this Constitution and the laws" (art. 76, para. 3) to secure independent and fair trials. The Constitution also guarantees the status of judges (arts. 78, 79 and 80). The Code of Criminal Procedure provides that judges who may cause doubt about the fairness of a trial because of a certain relationship with the accused or the injured party are excluded from the exercise of their functions.

269. As to juvenile trials, the Rules of Juvenile Proceedings provides that judges should refrain from performing their duty if they think there are reasons which cause doubt about the fairness of a trial (art. 32 of the Juvenile Law). Based on this rule, the accused juvenile and his/her attendant are allowed to demand that a judge should refrain from performing his duty. Furthermore, if the ruling of protective measures was taken by a judge who causes doubt about the fairness of a trial, the juvenile is allowed to appeal against the ruling under the Juvenile Law.

Coercion of deposition and confession of crime

270. The Constitution prohibits pubic officers from torturing suspects or compelling them to testify against themselves, and prescribes that the validity of confessions made under compulsion, torture or threat, etc. may be denied. The Code of Criminal Procedure specifies the right of suspects and the accused to remain silent, requires the investigating police officer and prosecutors and the judges trying the case to notify the suspects and the accused of the right to remain silent, and denies the validity of confessions which might have been made under compulsion, torture or threat, etc. or those which are suspected not to have been made voluntarily. The above provisions of the Constitution are also respected in juvenile proceedings.

271. The Standard of Criminal Investigation prohibits the police from using such means as compulsion, torture or threat, which raise doubts about the validity of confessions. Especially when investigating minors, the rule states, the police should not make the investigation public and should be careful of what they say and do, based on the spirit of protecting the sound

growth of juveniles. Thus, the police should investigate minors with consideration and understanding and make efforts not to hurt the feelings of juveniles, in consideration of their special nature.

Cross-examination, witness attendance and questioning of witness

272. Regarding criminal procedure, paragraph 2 of article 37 of the Constitution provides that "He (the accused) shall be permitted full opportunity to examine all the witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense." In line with this, the Code of Criminal Procedure guarantees to the accused or defence counsels the right to request examination of witnesses, the right to be present at such examination, and the right to examine witnesses. The Code also restricts the validity of an investigator's record of oral statement which did not go through cross-examination.

273. The Juvenile Law states that the provisions concerning questioning of witnesses in the Criminal Procedure Law should also be applied mutatis mutandis to juvenile proceedings, so long as they are not contrary to the nature of juvenile protective cases. Therefore, a juvenile's right to question and cross-examine witnesses is also fully guaranteed in juvenile trials.

274. Because the Juvenile Law adopts the ex officio hearings structure (see para. 257) regarding the request for witness attendance, the Law has no provisions on a juvenile or his/her attendant's direct right to request questioning of witnesses. The juvenile and his/her attendant, however, may ask judges to exercise their authority concerning examination of witnesses, and additionally, in some cases, a Family Court may be requested ex officio to investigate evidence. If judges do not examine witnesses without any reasonable reasons, and that affects the ruling of protective measures, the failure to examine witnesses may be a reason for an appeal.

Appeal

275. The Code of Criminal Procedure guarantees to the accused the right to appeal to a higher court, and provides that the accused can appeal the judgement of the first trial to a high court, if there exist reasons, such as errors in finding facts, mistakes in the application of laws, legal proceedings, which violated laws or an unreasonable sentence, which obviously have affected the judgement. The Code also provides that the accused may appeal the judgement of the first or second trial rendered by a High Court to the Supreme Court if there exist reasons, such as a violation of the Constitution or breach of the judicial precedents set forth by the Supreme Court.

276. The Juvenile Law allows appeal of rulings of protective measures to a higher court for the reasons of law violation, serious errors in finding facts or remarkably improper measures, and also allows reappeal of the decision to the Supreme Court for the reasons of violation of the Constitution, breach of the judicial precedents set forth by the Supreme Court, etc.

Assistance with interpretation

277. The Japanese language is used in Japanese courts. The Code of Criminal Procedure provides that in case a person or persons not versed in the Japanese language is required to make a statement in a criminal trial, an interpreter or interpreters shall be caused to interpret. In such case, the interpreter may demand travelling expenses, daily allowances and remuneration for interpreting from the court, and these expenses are paid by the Government. The Juvenile Law provides that a Family Court may order interpretation in cases involving juveniles and that the provisions of the Code of Criminal Procedure concerning interpretation shall be applied mutatis mutandis. Judicial precedents of the Supreme Court state that an interpreter or interpreters should be employed when the accused makes a deposition in a trial and in questioning witnesses, etc. as well as for the purpose of making the accused understand the content of the trial. In practice, interpreters are employed in all the courts in cases where the accused are not versed in the Japanese language.

Respect for privacy

278. The Code of Criminal Procedure provides that a criminal trial aims at clarifying the truth of the case and maintaining public welfare, guaranteeing fundamental human rights to the full. In the case of juvenile trials, the procedure is not made public and certain restrictions are imposed on perusal and copying of records. Furthermore, the Juvenile Law forbids the carrying in newspapers or other publications of articles or photographs containing the name, age, occupation, house, looks, etc. which may identify who has been brought to proceedings in the Family Court or prosecuted for an offence which he/she committed while he/she was a juvenile. The Family Court makes efforts to keep confidentiality in juvenile cases while considering the social demand for disclosure of information. For example, they try to avoid expressions which would identify the accused or the injured juvenile, and use brief and abstract expressions to describe the motive and details of the crime to protect the juvenile's feelings and not to obstruct his/her rehabilitation. Through these measures, the Family Court tries to respect the privacy of juveniles.

279. Those who are sent to Juvenile Classification Homes by remand decisions are placed in a neat and quiet environment. Immediately after entering the home, they are placed in a single room if the situation allows. If they must share a room the roommates are chosen, with consideration for the personality, background, age, etc. Washrooms are divided into compartments for personal use. Clothing, bedding and other daily necessities are lent or supplied, but personal articles may also be used, so long as they do not disrupt the maintenance of discipline and order or pose hygienic problems in the institutions. Thus, efforts are being made to fully respect the personal lives of inmates.

280. Those who are detained in a house of detention are also treated with various kinds of consideration like those in Juvenile Classification Homes, and efforts are made to fully respect the personal lives of inmates.

Alternatives to judicial procedure

281. As for the measures after the juvenile procedure has begun, if it is considered that the measures provided in the Child Welfare Law should be taken, the case is sent to the prefectural governor or the director of a Child Guidance Centre under the provisions of the Juvenile Law. Then, the child in question is guided or sent to an institution.

D. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c), (d))

282. In Japan, article 31 of the Constitution provides for the general security of due process, stating that no person shall be deprived of life or liberty except according to the procedure established by law. The Constitution further provides that no person shall be apprehended except upon warrant unless he is apprehended when the offence is being committed (art. 33), and establishes that no person shall be detained without being at once informed of the charges against him (art. 34). Based on these, the Code of Criminal Procedure stipulates procedure for: ordinary arrest where a suspect may be arrested by a warrant issued by a judge in advance if there is reasonable cause to believe that he/she has committed a crime; arrest of person who is committing or has just committed an offence; and arrest without a warrant, which may be recognized in certain felonious cases on the grounds of urgency if the issuance of a warrant could not have been requested in advance, provided that there are sufficient reasons to believe that the person in question has committed a crime.

283. Especially with regard to the exercise of the power to arrest, the police try to avoid the physical restraint of juveniles (i.e those between 14 and 19 years of age, subject to criminal liability) as much as possible in view of the standards for criminal investigation and the Guidelines for Police Activities on Juvenile Crimes. There are provisions stating that if, for the lack of alternatives, a juvenile must be arrested, brought to the police station, or escorted from one place to another, special consideration must be given to the time and procedures. The power to arrest a juvenile is exercised with consideration for the juvenile suspect's age, character and criminal record and the circumstances of the crime.

284. Furthermore, special consideration is given to the character of juveniles under physical restraint in the investigation stages. In other words, no juvenile may be detained unless absolutely necessary; if he/she is to be detained, the Juvenile Classification Home may serve as a detention house, and detention and shelter may be an alternative measure to detention. In juvenile protection proceedings, moreover, it is provided that the decision to send a juvenile to a Juvenile Classification Home shall be made by the Family Court, and that the term of protective detention shall not exceed four weeks. The decision may, however, be changed or cancelled during the term.

285. In Japan, in cases where a juvenile is to be deprived of liberty, under the Juvenile Law for example, a juvenile suspect or an accused juvenile must be separated from other suspected or accused persons to minimize contact

between them; in a detention centre, a juvenile under 20 years of age must be separated from adults (who are 20 years or older); and for a juvenile who has been sentenced to penal servitude or imprisonment, the sentence must be enforced in a specially established prison or an exclusive division of a prison. The police also give special consideration to the detention of an arrested juvenile under the Guidelines for Police Activities on Juvenile Crimes. For instance, juveniles must be kept in custody separately from adult suspects, and the detention rooms for juveniles must be separated from those of adults by partitions. In detention rooms, contact between juveniles and adults is avoided by separating the time of bathing, exercise and entering/exiting detention rooms.

286. As for the rights of a juvenile who is deprived of liberty to contact his family, refer to paragraph 128.

287. The Code of Criminal Procedure guarantees the right to appoint a defence counsel for a suspect or an accused, and also the right to have an interview with a defence counsel for a suspect or an accused held in custody. Moreover, paragraph 1 of article 10 of the Juvenile Law recognizes that a juvenile and his/her guardian have the right to appoint an attendant; in cases where the juvenile is deprived of liberty during the proceedings of a juvenile trial, he/she may designate an attendant and make contact with an attendant. In a Juvenile Classification Home, the juvenile is also permitted to meet an attendant or a lawyer who will be his/her attendant without an observer; the right to meet his/her family is guaranteed.

288. The juvenile' right to challenge the legality of the deprivation of his/her liberty and to have a prompt decision is guaranteed by the measures referred to in paragraph 268. Moreover, under the Code of Criminal Procedure, any person who is dissatisfied with the decision on detention made by a judge or a court may reappeal, and also may reappeal against the ruling of the appellate court to the Supreme Court for the reasons of violation of the Constitution or incompatibility with the judicial precedents. There is no right to appeal against a decision on detention and shelter care because, unlike detention in criminal procedures, it is an interim measure that is considered essential for analysis of a juvenile, assuming that the protective action is taken pursuant to a ruling of the Family Court. None the less, there are provisions for ex officio cancellation and modification even for the measures of detention and shelter care. In practice, the Family Court makes a prompt decision to deal with pleas for ex officio action to annul the measures, thereby guaranteeing the rights to be respected in cases of deprivation of liberty. In addition the Habeas Corpus Law stipulates that any person under physical restraint without due process may apply for relief under the Law.

E. Sentencing of juveniles, in particular, the prohibition of capital punishment and life imprisonment (art. 37(a))

289. Article 51 of the Juvenile Law of Japan provides that "in case a person who is under 18 years of age at the time of commission of an offence is to be punished with the death penalty, he shall be sentenced to life imprisonment,

and in case he is to be punished with the latter, he shall be sentenced to imprisonment with or without labour for not less than 10 years but not more than 15 years". In the case of a life term, if a person is under 20 years of age upon the announcement of a sentence, he/she shall be eligible for parole in 7 years and if a person is 20 years or older, he/she shall be eligible for a parole in 10 years. According to the administration of juvenile justice, no person under 18 years of age will receive a death penalty nor a penalty for a life term without a possibility of a release.

F. Physical and psychological recovery and social reintegration (art. 39)

290. As a means to ensure the physical and psychological recovery of abandoned or abused children, under the Child Welfare Law such children are given temporary protection of Child Guidance Centres until they can be transferred to child welfare facilities or return to their families. According to the individual situations of the child and his/her family, such a child may also be admitted to infant homes or protective institutions.

291. As clearly stated in the official handbooks of the Juvenile Section, the police are to promote regular counselling activities through specialists in juvenile guidance and female police officers and assist activities in cooperation with guardians and any other person concerned, focusing on the protection of juvenile victims of crimes involving serious physical and psychological injuries such as rape, forced obscenity and other sexual crimes and bullying.

292. With regard to runaway juveniles who could be in danger of death or injury or of becoming victims of crime, the police are making great efforts for swift identification by instituting a search at police stations throughout the country. As the number of runaway cases tends to increase at the time of the year when children become psychologically unstable (just before entering school or employment) and gain a greater sense of freedom (during the summer vacation), the police reinforce search and protection activities seasonally, especially targeting runaway juveniles. In addition, to promote swift search and discovery of runaway persons, a system for supporting the discovery of runaway and missing persons is established, to be launched in 1997. Once the system starts operating search and protection activities would accelerate, in other words, the police will be able to prevent the victimization of juvenile runways and take measures to remedy their situation in life at an early stage. The number of runaway juveniles detected and protected by the police in 1993 and 1994 is shown below:

Year	1993	1994
Runaway juveniles found by the police	28 302	27 377

Source: Survey by the National Police Agency.

G. Economic exploitation, including child labour (art. 32)

293. Paragraph 3 of article 27 of the Constitution stipulates that "Children shall not be exploited". Moreover, the following laws protect children with regard to their labour.

294. The Labour Standards Law not only stipulates working conditions such as wages and working hours as indicated below, but also prohibits the employment of children for work recognized as dangerous and harmful to the safety, hygiene and welfare of the child. As for regulation of these labour standards, Labour Standards Inspection Offices are in charge of supervision and guidance to ensure the observance of the laws and of sending the laws and regulations to employers. Furthermore, the Women's and Young Workers' Office of the Ministry of Labour conducts public relations activities. The board of education directs the principals of lower secondary schools to ensure that the standards for the permission of children's employment are generally understood by teachers, students and their guardians. Moreover, principals give instructions to forbid work if it is found to have negative effects on the student in terms of his/her study and health.

295. Minimum age. Refer to paragraph 42.

296. Working hours. In article 60 of the Labour Standards Law, it is stipulated that a person under 18 full years of age shall not be subject to provisions for exceptional cases involving modified working hour systems, overtime work, holiday work, working hours and rest. Furthermore, with regard to a child under 15 full years of age who may be employed with permission from administrative offices, the child shall not work more than 7 hours a day, with a total of 40 hours per week including study hours in school.

297. Employment contract. Article 58 of the Labour Standards Law stipulates that the parent, guardian, or the administrative office may cancel the labour contract if they consider it disadvantageous to the minor.

298. Wages. Article 59 of the Labour Standards Law provides that the minor may request wages independently, and the parent or guardian shall not receive the wages earned by the minor in place of the minor.

299. Late-night work. Under article 61 of the Labour Standards Law, as a general rule, late-night work (from 10 p.m. to 5 a.m.) by persons under 18 full years of age is prohibited.

300. Safety and hygiene. Under articles 62 and 63 of the Labour Standards Law, an employer is prohibited from allowing persons under 18 full years of age to engage in dangerous, harmful or underground work.

301. Furthermore, the Child Welfare Law protects children from harmful activities by banning an employer from allowing persons under 15 full years of age to engage in singing and performing on the street or other places or to work in a bar.

302. In addition, the Law on Control and Improvement of Amusement and Entertainment Businesses prohibits entertainment and amusement traders from "allowing persons under 18 years of age to engage in jobs involving meeting with guests or dancing with guests", and "allowing persons under 18 years of age to attend to guests from 10 p.m. until sunrise". The law also prevents activities harmful to the sound growth of the juvenile by prohibiting the trader or entertainment-related business from "allowing persons under 18 years of age to engage in jobs involving meeting with guests in the place of business".

303. Regarding criminal offences such as abuse, overwork, and other offences that harm the welfare of juveniles, the police use the 23 laws with provisions against the aforementioned crimes, such as the Child Welfare Law, the Labour Standards Law, the Employment Security Law, the Prostitution Prevention Law, the Law on Control and Improvement of Amusement and Entertainment Businesses. Especially with regard to the protection of juveniles from harmful work, the police conduct continuous regulation under the Labour Standards Law and the Law on Control and Improvement of Amusement and Entertainment Businesses and others. They also carry out protective actions for juveniles who have been in harmful environments, such as dangerous work and sex industries. For those victimized juveniles, the police take actions to implement aftercare through consultation by female officers to reduce the physical damage and psychological trauma and to promote early recovery.

Table 24. Number of arrests of welfare offenders - protection of children from harmful environments

	1993	1994	1995
Labour Standards Law	496	411	330
Law on Control and Improvement of Amusement and Entertainment Businesses	953	1 110	1 068

Table 25. Penalties under the main legal provisions

Provisions	Penalty
Minimum age (art. 56, Labour Standards Law) Prohibition of underground work by persons under 18 full years of age (art. 63, Labour Standards Law)	Penal servitude not exceeding one year or a fine not exceeding ¥500,000
Working hours (art. 32, Labour Standards Law) Holidays (art. 35, Labour Standards Law) Prohibition of late-night work by persons under 18 full years of age (art. 61, Labour Standards Law) Regulation on dangerous/harmful work by persons under 18 full years of age (art. 62, Labour Standards Law)	Penal servitude not exceeding six months or a fine not exceeding ¥300,000
Employment contract for minors (art. 58, Labour Standards Law)	A fine not exceeding ¥300,000
Prohibition on making a child under 15 full years of age serve at a banquet (art. 34, paras. 1-5, Child Welfare Law)	Penal servitude not exceeding one year or a fine not exceeding ¥300,000
Prohibition of activities allowing persons under 18 years of age to attend to guests, become dance partners or engage in jobs involving meeting with guests from 10 p.m. until sunrise (art. 22, paras. 2 and 3, Law on Control and Improvement of Amusement and Entertainment Businesses)	Penal servitude not exceeding six months or a fine not exceeding ¥300,000 or both

H. Drug abuse (art. 33)

304. Japan has acceded to the Single Convention on Narcotic Drugs, 1961, an international treaty in the field of drug abuse, the Protocol Amending the Single Convention, 1961, the Convention on Psychotropic Substances, 1971 and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. In addition to active efforts to prevent drug abuse and illicit trafficking at the international level, Japan is cooperating on law enforcement, demand reduction, chemical controls and alternative development programmes with the United States, as the drug problem is identified as one of the items on the "Common Agenda", which was established as one of the pillars under the Japan-United States Framework Talks, with the aim of addressing transnational issues by joint efforts of the two nations.

305. In Japan, the Penal Code provides for crimes relating to smoking opium. Moreover, distribution of illicit narcotics, psychotropics and their raw materials for medical and/or scientific use, and illicit trafficking are

regulated by five drug-related laws, namely the Narcotics and Psychotropics Control Law, the Cannabis Control Law, the Stimulants Control Law, the Opium Law and the Law Concerning Special Provisions for the Narcotics and Psychotropics Control Law, etc. and Other Matters for the Prevention of Activities Encouraging Illicit Conduct and Other Activities Involving Controlled Substances through International Cooperation (hereinafter called "Law on Special Provisions for Narcotics"), under which violators are penalized to prevent criminal offences. The Law on Special Provisions for Narcotics was established in 1991 to criminalize money-laundering and other offences, to confiscate illicit gains, to promote international assistance and to ensure the controlled delivery of drugs, etc. Moreover, four conventional drug-related laws were amended to regulate raw materials for narcotic drugs and psychotropic substances and to penalize persons committing drug-related crimes outside the country. These five drug-related laws were promulgated in 1992 and the Government is working to prevent the diffusion of drugs among children by the proper implementation of these laws and the effective regulation of drug crimes.

306. In reality, however, there is a high incidence of drug abuse and misconduct involving stimulants and cannabis. In addition to the drugs as defined in the international treaties, in Japan, delinquencies involving abuse of organic solvents such as paint thinner also frequently occur. The Japanese mafia are aggravating delinquency by smuggling drugs including paint thinner to juvenile drug abusers to acquire funds for their activities. In 1995, the number of juveniles guided and protected for abusing stimulants was 1,079; those for cannabis abuse totalled 189; those for paint thinner 5,456. The number of juveniles guided and protected for abusing stimulants reached the highest level since 1989.

Table 26. Number of juveniles arrested for drug abuse (1995)

	Total	Students				Employed	Unemployed
		Total	L.S.	U.S.	Others		
Abuse of stimulants	1 079	148	19	92	37	360	571
Abuse of marijuana	189	59	3	32	24	62	68
Paint thinner	5 456	1 518	568	799	151	1 959	1 979

Source: Survey by the National Police Agency.

Note: L.S.: lower secondary students
U.S.: upper secondary students

307. In response, the police are not only rounding up juvenile drug abusers and controlling illicit sales of drugs, but are also actively promoting programmes to prevent drug abuse. In specific terms, they are (i) obstructing

drug-trafficking routes in close cooperation with regulatory agencies of foreign countries; (ii) blocking the drug supply by requesting dealers of paint thinner to impose control over sales; (iii) providing special instructions and advice to juvenile drug abusers through special counsel officers; (iv) teaching the harmfulness and dangerousness of drug abuse to juvenile drug abusers in care and custody to prevent the recurrence of misconduct; (v) holding "anti-drug-abuse lessons" in local communities and at schools, and launching PR activities through pamphlets, TV, radio and other media. The police are also encouraging public relations activities through Prefectural Promoters for the Prevention of Stimulant Abuse, the Centre for the Prevention of Cannabis and Stimulant Abuse and the Association for the Prevention of Crime, to build a society that does not allow drug abuse to take place. In particular, the police are launching public relations activities actively, visiting lower secondary schools in campaign cars to thoroughly prevent young persons from abusing drugs and to raise their awareness.

308. Furthermore, lower and upper secondary schools regularly give instructions for the prevention of drug abuse (including opium and stimulants), as a subject of health and physical education and special activities. The government guidelines for teaching, revised in 1989, also provide for health and physical education to focus on matters relating to drug abuse and health in view of the significance of the problem. The Government is working to consolidate instructions to children by preparing and distributing guidance materials to teachers and by raising teacher's awareness of the drug abuse problem through training courses for persons in charge of school health.

I. Sexual exploitation and sexual abuse (art. 34)

309. In Japan, children are protected from sexual exploitation and sexual abuse under the following laws:

(a) For the prevention of persuasion and coercion to perform unlawful sexual acts, the Child Welfare Law prohibits the act of inducing children to practise obscene acts, and the Penal Code provides that indecency through compulsion, rape, compulsory indecency, and inducement to illicit intercourse are subject to punishment;

(b) For the prevention of exploitative employment in the sex industry, the Prostitution Prevention Law prohibits prostitution and provides for the punishment of those involved in procurement, prostitution through embarrassment, contracts to make a person prostitute him/herself, furnishing a place and engaging in the business of making a person engage in prostitution and furnishing funds. Moreover, the Child Welfare Law prohibits the act of inducing children to practise obscene acts and punishes any person keeping a child in his/her custody with the aim of making the child perform an act that has injurious effects on the child's mind and body;

(c) For the prevention of the exploitative employment of children in obscene performances and publications, the Penal Code provides for the punishment of such acts as public indecency and distribution of obscene

literature, etc. The act of making children perform in a pornographic business or publication are subjected to punishment under the Child Welfare Law;

(d) The Law on Control and Improvement of Amusement and Entertainment Businesses prohibits proprietors of attraction business showing nude persons for soliciting sexual curiosity from making persons under 18 years of age meet with guests in the place of business. Those who have violated the laws are subject to punishment thereunder;

(e) Prefectural ordinances concerning the protection and care of young persons (the so-called Youth Protection Ordinance) provide for the prohibition of obscene and indecent acts against young persons, and are promulgated according to the actual situations of each region. The Government also promotes, as appropriate, domestic measures to deal with the issue, thorough regulation by the appropriate application and adjustment of the said prefectural ordinances.

310. The police classify crimes that harm the welfare of children as "welfare crimes", including sexual exploitation and sexual abuse of children, and are engaging in continuous control. While protecting children from harmful environments (dangerous work or the sex business), female police officers for juveniles practise aftercare counselling to alleviate the physical and psychological injury inflicted upon victimized children and help them recover promptly. With regard to children who are the victims of child welfare crimes, moreover, the Child Guidance Centre gives counselling and education to the child and his/her family.

311. Furthermore, foreign children, mainly from South-East Asian countries, are being employed for such harmful work in some cases, following the increasing number of foreigners coming to Japan. Since 1996, the Government has included crimes of assisting illegal employment as referred to in article 73-2 of the Immigration Control and Refugee Recognition Law in the category of "welfare crimes" which injure the welfare of children, such as child abuse and exploitation. In this way, the police have also reinforced their activities for the protection of foreign children.

Table 27. Number of persons arrested for sexual exploitation and abuse

Classification	1993	1994	1995
Child Welfare Law (act of inducing children to practise obscene acts)	274	290	368
Prostitution Prevention Law	255	381	241
Ordinance for Protecting and Caring for Young Persons (indecent acts)	2 174	2 453	2 761

Source: Survey by the National Police Agency.

312. In recent years, there has been an increase in telephone clubs, etc. that allow telephone communication between unspecified women and men. There has been a high incidence of girls suffering sexual damage as a result of making phone calls simply out of curiosity. Therefore, the following measures are being taken: (i) the reinforcement of control by the police over welfare crimes concerning the business of telephone clubs and various illegal activities caused by illegal advertisements; (ii) the enforcement of regulations under the ordinances for a place of business and a place for card vending machines, and for soliciting young people; (iii) to promote better environments in the regions, concerned industries have been requested to apply self-imposed control of their business, and to remove card vending machines and advertisements in cooperation with related agencies, organizations and local communities; (iv) public relations and educational activities. Moreover, the police take measures to protect girls suffering sexual injury.

313. Japan is also concerned about children throughout the world in the sex trade and who suffer sexual damage as a result. Japan acceded to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Agreement for the Suppression of the Circulation of Obscene Publications. The Penal Code stipulates that the law may be applied to serious crimes committed by Japanese nationals outside of Japanese territory with regard to indecency through compulsion, rape, constructive compulsory indecency, constructive rape, a forced indecent act resulting in death or injury and solicitation to commit fornication. Moreover, with regard to crimes similar to these unlawful offences, the Government is giving assistance in investigation, judicial assistance, and information exchange with foreign countries.

314. Furthermore, in Japan, to prevent so-called sex tourism by Japanese tourists in foreign countries, under the provisions of the Travel Agency Law travel agents, their representatives, employees or other workers are prohibited from soliciting and providing services for the performance of acts prohibited by the laws in the places visited (art. 13, paras. 1-3). If it is evident that a travel agent was involved in unsound activities involving Japanese travellers, the name of the travel agent and details of the involvement are made public. Moreover, the Government provides guidance and education for enhancing sound overseas tours by Japanese travellers through the Association for Travel Agencies in Japan.

Table 28. Penalties under the main legal provisions

Provisions of the laws (articles)	Penalty
Indecency through compulsion (art. 176 of the Penal Code) Constructive compulsory indecency (art. 178 of the Penal Code)	Penal servitude of six months or more but not exceeding seven years
Rape (art. 177 of the Penal Code) Constructive rape (art. 178 of the Penal Code)	Penal servitude for a definite term of two years or more
Public indecency (art. 174 of the Penal Code)	Penal servitude not exceeding six months or a fine not exceeding ¥300,000, or custody or minor fine
Distribution of obscene literature, etc. (art. 175 of the Penal Code)	Servitude not exceeding two years or a fine not exceeding ¥2,500,000 or minor fine
Act of inducing children to practice obscene acts (art. 34, paras. 1-6 Child Welfare Law)	Penal servitude not exceeding 10 years or a fine not exceeding ¥500,000
Act of keeping a child under one's control or for purposes harmful to the child (art. 34, paras. 1-9, Child Welfare Law)	Penal servitude not exceeding one year or a fine not exceeding ¥300,000
Persuasion of prostitution (art. 5 of the Prostitution Prevention Law)	Penal servitude not exceeding six months or a fine not exceeding ¥10,000
Solicitation for prostitution (art. 6 of the Prostitution Prevention Law)	Penal servitude not exceeding two years or a fine not exceeding ¥50,000
Prostitution through embarrassment (art. 7 of the Prostitution Prevention Law) Contracts for prostitution (art. 10 of the Prostitution Prevention Law) Furnishing of a place for prostitution (art. 11 of the Prostitution Law)	Penal servitude not exceeding three years or a fine not exceeding ¥100,000
Business of making a person a prostitute (art. 12 of the Prostitution Prevention Law)	Penal servitude not exceeding 10 years or a fine not exceeding ¥300,000

J. Other forms of exploitation (art. 36)

315. Other than the aspects of work and sexuality, the Child Welfare Law prohibits activities considered to be harmful to children, including the exhibition of children, and imposes penalties against such offences. Moreover, when child protection is necessary, the Child Guidance Centre service for the temporary protection of the child.

316. In Japan, under the law concerning the prevention of unlawful activities by members of gangster organizations, enacted on 1 March 1992, the following activities by members of criminal organizations designated by the prefectural public safety commission are prohibited against juveniles: forced admission into a gang, prevention of desertion and forcing a tattoo (included in the partial revision in 1993). The law also stipulates that the prefectural public safety commission can order the suspension of these forced activities. With these regulations, a suspension order against a gangster who had induced two 16-year-old boys to join an organized crime group was enforced (October 1995, Hokkaido); a suspension order against a gangster who had prevented a 17-year-old boy from withdrawing was enforced (October 1995, Kanagawa). The protection of juveniles against organized crime groups is attempted thereby.

K. Sale, trafficking and abduction (art. 35)

317. The Penal Code provides for the punishment of anyone kidnapping by force or allurement a minor, and anyone involved in buying or selling another for the purpose of transporting him/her abroad or in transporting the kidnapped/sold person overseas. Moreover, the Child Welfare Law stipulates that the following activities are prohibited: acts transferring custody of a child to a person who is liable to violate any of the penal laws and regulations, knowing such facts, or acts transferring custody of such a child to any other person, knowing that the child will be handed over to others for such purposes (art. 34, paras. 1-7, Child Welfare Law). The Child Welfare Law stipulates that offenders who have violated the aforementioned regulations are to be punished; thus, the law prevents the handing over of a child to a person who is engaging in abduction, purchase and sale, and trafficking. The number of persons convicted during the 10 years between 1984 and 1994, pursuant to paragraphs 1-7 of article 34 of the Child Welfare Law, totalled 263.

318. Furthermore, children are protected from illegal transport outside the country by ensuring just control of immigration and emigration based on the Immigration Control and Refugees Recognition Law.

319. Japan has acceded to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. With regard to purchase and sale of a person for the purpose of prostitution, Japan is to have a system enabling judicial cooperation and exchange of information between parties to the Convention concerning the activities that are the subject of the Convention.

L. Children belonging to a minority or an indigenous group (art. 30)

320. The Constitution of Japan prohibits discrimination based on race, etc. It also guarantees freedom of expression, thought, conscience and religion. Therefore, with regard to all children who belong to an ethnic minority or an indigenous group as referred to in article 30 of the Convention, as a citizen whose equality under the Constitution is guaranteed, the right to have their own culture, to practise their own religion and to use their own language is guaranteed.